THE ENACTMENTS OF JUSTINIAN.

THE CODE.

~Book I~

)S.�P.�Scott, The Civil Law, XII, Cincinnati, 1932.(

.1 Concerning the most exalted Trinity and the Catholic faith(..)
.2 Concerning the most sacred churches, their property and their privileges.
.3 Concerning bishops and other members of the clergy, superintendents of orphan asylums(..)
.4 Concerning the Episcopal tribunal and the different charters which relate to pontifical supervision.
.5 Concerning heretics, Manicheans, and Samaritans.
.6 To avoid the repetition of baptism.
.7 Concerning apostates.
.8 No one shall be permitted to carve or paint the image of our saviour Jesus Christ upon earth(..)
.9 Concerning Jews and the worshippers of the heavens.
.10 No Jew or pagan shall hold, possess, or circumcise a Christian slave.
.11 Concerning the pagans, their sacrifices, and their temples.
.12 Concerning those who take refuge in churches; or who cry out while there(..)
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.14 Concerning the laws and constitutions of the Emperors, and edicts.
.15 Concerning the Imperial Mandates.
.16 Concerning Decrees of the Senate.
.17 Concerning the explanations of the ancient law and the authority of the jurists (..)
.18 Concerning ignorance of law and of fact.
.19 Concerning the presentation of petitions to the Emperor(..)
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.22 Where anything contrary to law or the public welfare is fraudulently included (..)
.23 Concerning different rescripts and pragmatic sanctions.
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.26 Concerning the office of Praetorian Prefect of the East and Illyria.
.27 Concerning the office of Praetorian Prefect of Africa(..)
.28 Concerning the duties of the Prefect of the City.
.29 Concerning the office of General of the Army.
.30 Concerning the duties of Quaestor.
.31 Concerning the duties of Master of the Offices.

.32 Concerning the duties of Count of the Sacred Largesses.
.33 Concerning the duties of Count of Private Affairs.
.34 Concerning the duties of Count of the Imperial Palace.
.35 Concerning the duties of Proconsul and Deputy.
.36 Concerning the duties of the Count of the Imperial Patrimony.
.37 Concerning the duties of Count of the East.
.38 Concerning the office of Augustal Prefect.
.39 Concerning the office of Vicegerent.
.40 Concerning the duties of Praetor.
.41 Concerning the duties of the Governor of a province.
.43-42 The Latin texts of these two titles are missing.
.44 Concerning the office of the Prefect of the Watch.
.45 Concerning the duties of Civil Judges.
.46 Concerning the duties of Military Judges.
.47 Baths shall not be furnished to Military Counts or Tribunes.
.48 Concerning the duties of various judges.
.49 All judges (..) shall remain for forty days after their term of office has expired (..)
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.51 Concerning assessors, attendants and the chancellors of judges.
.52 Concerning provisions and the capitations of certain officials and their assessors (..)
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Title 1. Concerning the most exalted Trinity and the Catholic faith, and providing that no one shall dare to publicly oppose them.

.1The Emperors Gratian, Valentinian, and Theodosius to the People of the City of Constantinople.

We desire that all peoples subject to Our benign Empire shall live under the same religion that the Divine Peter, the Apostle, gave to the Romans, and which the said religion declares was introduced by himself, and which it is well known that the Pontiff Damasus, and Peter, Bishop of Alexandria, a man of apostolic sanctity, embraced; that is to say, in accordance with the rules of apostolic discipline and the evangelical doctrine, we should believe that the Father, Son, and Holy Spirit constitute a single Deity, endowed with equal majesty, and united in the Holy Trinity.

(1)We order all those who follow this law to assume the name of Catholic Christians, and considering others as demented and insane, We order that they shall bear the infamy of heresy; and when the Divine vengeance which they merit has been appeased, they shall afterwards be punished in accordance with Our resentment, which we have acquired from the judgment of Heaven.

Dated at Thessalonica, on the third of the Kalends of March, during the Consulate of Gratian, Consul for the fifth time, and Theodosius.

.2The Same Emperors to Eutropius, Praetorian Prefect.

Let no place be afforded to heretics for the conduct of their ceremonies, and let no occasion be offered for them to display the insanity of their obstinate minds. Let all persons know that if any privilege has been fraudulently obtained by means of any rescript whatsoever, by persons of this kind, it will not be valid. Let all bodies of heretics be prevented from holding unlawful assemblies, and let the name of the only and the greatest God be celebrated everywhere, and let the observance of the Nicene Creed, recently transmitted by Our ancestors, and firmly established by the testimony and practice of Divine Religion, always remain secure.

(1)Moreover, he who is an adherent of the Nicene Faith, and a true believer in the Catholic religion, should be understood to be one who believes that Almighty God and Christ, the Son of God, are one person, God of God, Light of Light; and let no one, by rejection, dishonor the Holy Spirit, whom we expect, and have received from the Supreme Parent of all things, in whom the sentiment of a pure and undefiled faith flourishes, as well as the belief in the undivided substance of a Holy Trinity, which true believers indicate by the Greek word ousia. These things, indeed, do not require further proof, and should be respected.

(2)Let those who do not accept these doctrines cease to apply the name of true religion to their fraudulent belief; and let them be branded with their open crimes, and, having been removed from the threshold of all churches, be utterly excluded from them, as We forbid all heretics to hold unlawful assemblies within cities. If, however, any seditious outbreak should be attempted, We order them to be driven outside the walls of the City, with relentless violence, and We direct that all Catholic churches, throughout the entire world, shall be placed under the control of the orthodox bishops who have embraced the Nicene Creed.

Given at Constantinople, on the fourth of the Ides of January, under the Consulate of Flavius Eucharius and Flavius Syagrius.

.3The Emperor Martian to Palladius, Praetorian Prefect.

No one, whether he belongs to the clergy, the army, or to any other condition of men, shall, with a view to causing a tumult and giving occasion to treachery, attempt to discuss the Christian religion publicly in the presence of an assembled and listening crowd; for he commits an injury against the most reverend Synod who publicly contradicts what has once been decided and properly established; as those matters relative to the Christian Faith have been settled by the priests who met at Chalcedony by Our order, and are known to be in conformity with the apostolic explanations and conclusions of the three hundred and eight Holy Fathers assembled in Nicea, and the hundred and fifty who met in this Imperial City; for the violators of this law shall not go unpunished, because they not only oppose the true faith, but they also profane its venerated mysteries by engaging in contests of this kind with Jews and Pagans. Therefore, if any person who has ventured to publicly discuss religious matters is a

member of the clergy, he shall be removed from his order; if he is a member of the army, he shall be degraded; and any others who are guilty of this offence, who are freemen, shall be banished from this most Sacred City, and shall be subjected to the punishment prescribed by law according to the power of the court; and if they are slaves, they shall undergo the severest penalty.

Given at Constantinople, on the eighth of the Ides of February, under the consulship of Patricius.

.4John, Bishop of the City of Rome, to his most Illustrious and Merciful Son Justinian.

Among the conspicuous reasons for praising your wisdom and gentleness, Most Christian of Emperors, and one which radiates light as a star, is the fact that through love of the Faith, and actuated by zeal for charity, you, learned in ecclesiastical discipline, have preserved reverence for the See of Rome, and have subjected all things to its authority, and have given it unity. The following precept was communicated to its founder, that is to say, the first of the Apostles, by the mouth of the Lord, namely: "Feed my lambs." This See is indeed the head of all churches, as the rules of the Fathers and the decrees of Emperors assert, and the words of your most reverend piety testify. It is therefore claimed that what the Scriptures state, namely, "By Me Kings reign, and the Powers dispense justice;" will be accomplished in you. For there is nothing which shines with a more brilliant lustre than genuine faith when displayed by a prince, since there is nothing which prevents destruction as true religion does, for as both of them have reference to the Author of Life and Light, they disperse darkness and prevent apostasy. Wherefore, Most Glorious of Princes, the Divine Power is implored by the prayers of all to preserve your piety in this ardor for the Faith, in this devotion of your mind, and in this zeal for true religion, without failure, during your entire existence. For we believe that this is for the benefit of the Holy Churches, as it was written, "The king rules with his lips," and again, "The heart of the King is in the hand of God, and it will incline to whatever side God wishes"; that is to say, that He may confirm your empire, and maintain your kingdoms for the peace of the Church and the unity of religion; guard their authority, and preserve him in that sublime tranquillity which is so grateful to him; and no small change is granted by the Divine Power through whose agency a divided church is not afflicted by any griefs or subject to any reproaches. For it is written, "A just king, who is upon his throne, has no reason to apprehend any misfortune." We have received with all due respect the evidences of your serenity, through Hypatius and Demetrius, most holy men, my brothers and fellow-bishops, from whose statements we have learned that you have promulgated an Edict addressed to your faithful people, and dictated by your love of the Faith, for the purpose of overthrowing the designs of heretics, which is in accordance with the evangelical tenets, and which we have confirmed by our authority with the consent of our brethren and fellow bishops, for the reason that it is in conformity with the apostolic doctrine. The following is the text of the letter of the Emperor Justinian, Victorious, Pious, Happy, Renowned, Triumphant, always Augustus, to John, Patriarch, and most Holy Archbishop of the fair City of Rome: With honor to the Apostolic See, and to Your Holiness, which is, and always has been remembered in Our prayers, both now and formerly, and honoring your happiness, as is proper in the case of one who is considered as a father, We hasten to bring to the knowledge of Your Holiness everything relating to the condition of the Church, as We

have always had the greatest desire to preserve the unity of your Apostolic See, and the condition of the Holy Churches of God, as they exist at the present time, that they may remain without disturbance or opposition. Therefore, We have exerted Ourselves to unite all the priests of the East and subject them to the See of Your Holiness, and hence the questions which have at present arisen, although they are manifest and free from doubt, and, according to the doctrine of your Apostolic See, are constantly firmly observed and preached by all priests, We have still considered it necessary that they should be brought to the attention of Your Holiness. For we do not suffer anything which has reference to the state of the Church, even though what causes the difficulty may be clear and free from doubt, to be discussed without being brought to the notice of Your Holiness, because you are the head of all the Holy Churches, for We shall exert Ourselves in every way (as has already been stated), to increase the honor and authority of your See.

(1)Therefore, We present to Your Holiness the fact that certain infidels and persons who do not belong to the Holy Catholic and Apostolic Church of God have, like Jews and apostates, dared to dispute matters which are properly accepted, glorified, and preached by all priests in accordance with your doctrines, denying that Our Lord Jesus Christ is the only begotten Son of God, and that Our Lord was born of the Holy Spirit and of the Holy, Glorious, and always Virgin Mary, the Mother of God, and became a man and was crucified, and that he is one of the persons of the Holy Trinity, who are all of one substance, and who should be adored and exalted along with the Father and the Holy Spirit, and that he is consubstantial with the Father according to divinity, and consubstantial with ourselves according to humanity, and susceptible of. the sufferings of the flesh, but not susceptible of the same as a deity. For these persons refusing to acknowledge Our Lord Jesus Christ as the only begotten Son of God, and Our Lord as one of the Holy Trinity, and of the same substance with the other persons composing it, appear to follow the evil doctrine of Nestor, who asserts that there is one Son of God according to grace, whom he styles the Word of God, and another Son whom he calls Christ.

(2)All the priests of the Holy Catholic and Apostolic Church and the most Reverend Abbots of the Holy Monasteries, acknowledging Your Holiness, and solicitous for the prosperity and unity of the Holy Churches of God, which they receive from the Apostolic See of Your Holiness, making no changes in the ecclesiastical condition which has existed up to this time, and still exists; with one voice, confess, glorify, and preach that Our Lord Jesus Christ is the only begotten Son and the Word of God, and that Our Lord, born of His Father before all centuries and times, Who descended from Heaven in the last days, was born of the Holy Spirit and the Holy and Glorious Virgin Mary, the Mother of God; became a man and was crucified; is of the same substance as the Holy Trinity to be adored and glorified with the Father and the Holy Spirit; for we do not acknowledge any other God, Word or Christ, but one alone, and the same of like substance with the Father, in accordance with divinity, and of like substance with us in accordance with humanity, Who could suffer in the flesh, but could not suffer as a deity; and Whom, Himself perfect in divinity as well as humanity, we receive and confess as being what the Greeks call tyn kav hupostasin henwsin homologumen. And, as the only begotten Son and Word of God was born of His Father before centuries and times existed, and as He, in later times, descended from Heaven, was born of the Holy Spirit and the Holy ever Virgin Mary, the Mother of God, Our Lord Jesus Christ having become a man, is properly and truly God. Hence

we say that the Holy and Glorious Virgin Mary is properly and truly the Mother of God, not for the reason that God obtained speech and origin from her, but because in the last days He descended from Heaven, and, incarnated through Her, became a man, and was born; whom we confess and believe (as has already been stated), to be of the same substance with the Father according to deity, and of the same substance with ourselves according to humanity, whose miracles and sufferings voluntarily sustained by Him while in the flesh we acknowledge.

(3)Moreover, we recognize four Sacred Councils, that is to say, the one composed of three hundred and eighteen Holy Fathers who assembled in the City of Nicea; and that of the hundred and fifty Holy Fathers who met in this Imperial City; and that of the Holy Fathers who first congregated at Ephesus; and that of the Holy Fathers who met at Chalcedony, as your Apostolic See teaches and proclaims. Hence, all priests who follow the doctrine of your Apostolic See believe, confess, and preach these things.

(4)Wherefore We have hastened to bring to the notice of Your Holiness, through the most blessed Bishops Hypatius and Demetrius (so it may not be concealed from Your Holiness), that these tenets are denied by some few wicked and judaizing monks, who have adopted the perfidious doctrines of Nestor.

(5)Therefore We request your paternal affection, that you, by your letters, inform Us and the Most Holy Bishop of this Fair City, and your brother the Patriarch, who himself has written by the same messengers to Your Holiness, eager in all things to follow the Apostolic See of Your Blessedness, in order that you may make it clear to Us that Your Holiness acknowledges all the matters which have been set forth above, and condemns the perfidy of those who, in the manner of Jews, have dared to deny the true Faith. For in this way the love of all persons for you, and the authority of your See will increase, and the unity of the Holy Church will be preserved unimpaired, when all the most blessed bishops learn through you and from those who have been dispatched by you, the true doctrines of Your Holiness. Moreover, We beg Your Blessedness to pray for Us, and to obtain the beneficence of God in Our behalf.

The subscription was as follows: "May God preserve you for many years, Most Holy and Religious Father".

HERE FOLLOWS THE REMAINDER OF THE LETTER of THE POPE.

It is then clear, Most Glorious Emperor (as the tenor of your message and the statements of your envoys disclose), that you have devoted Yourself to the study of apostolic learning, as You are familiar with, have written, proposed and published to believers among the people, those matters having reference to the faith of the Catholic religion, which (as we have already stated), both the tenets of the Apostolic See and the venerated authority of the Holy Fathers have established, and which, in all respects, we have confirmed. Therefore, it is opportune to cry out with a prophetic voice, "Heaven will rejoice with You, and pour out its blessings upon You, and the mountains will rejoice, and the hills be glad with exceeding joy." Hence, you should write these things upon the tablets of Your heart, and preserve them as the apples of your eyes, for there is no one animated by the charity of Christ who will appear to impugn this confession of the just and true faith; as it is evident that You condemn the impiety of Nestor and Eutyches, and all other heretics, and that You firmly and

inviolably, with devotion to God and reverent mind acknowledge the single, true, and Catholic Faith of Our Lord God, as revealed by the agency of Our Savior Jesus Christ; diffused everywhere by the preaching of the Prophets and Apostles; confirmed by the confessions of saints throughout the entire world, and united with the opinions of the Fathers and Doctors conformably to our doctrine. Those alone who are opposed to your professions are they of whom the Holy Scriptures speak as follows: "They have based their hope on lying, and have expected to remain concealed through falsehood." And also those who, according to the prophet, say to the Lord, "Depart from us, we are unwilling to follow your ways"; on account of which Solomon said, "They have wandered through the paths of their own cultivation and gathered unfruitful things with their hands." This, then, is your true faith, this your true religion, which all the Fathers and heads of the Roman Church of happy memory (as we have already stated) and whom we follow in all things, have embraced; this is what the Apostolic See has preached up to this time, and has preserved inviolate, and if anyone should appear to oppose this confession, and this Faith, he must show himself to be outside of the communion and the Catholic Church. We have found Cyrus and his followers in the City of Rome, who came from the Cumitensian monastery, and whom we have attempted by our apostolic arguments to recall to the true faith, as sheep who are about to perish and are wandering, should be brought back to the fold of the owner. In order that, according to the prophet, stammering tongues may know how to speak matters which have reference to peace, the first of our apostles quotes the words of Isaiah, the prophet, through us to unbelievers, namely: "Continue in the light of the fire and the flame which you yourselves have kindled, but their heart is so hardened (as has been written), that they do not recognize the voice of the Shepherd, and the sheep which were not mine are unwilling to hear." With reference to such persons, we, observing what was established by the Pontiff on this point, do not receive them in our communion, and we order them to be excluded from every Catholic Church, unless, having renounced their errors, they adopt our doctrine, and announce their adherence to it, after having made a regular profession of the same. For it is just that those who do not show obedience to the laws which we have established should be banished from the churches. But as the Church never closes her heart to those who return to her, I beseech Your Clemency, if they, having renounced their errors and abandoned their wicked designs, should wish to return to the bosom of the Church, to receive them in your communion, and abandon your feelings of indignation, and that through our intercession you pardon them, and grant them your indulgence. Moreover, we pray God and Our Saviour Jesus Christ, that he may preserve you long in peace in this true religion and in the unity and veneration of the Apostolic See, and that your most Christian and pious Empire may, in all respects, long be maintained. Moreover, 0 most Serene of Princes, we praise Hypatius and Demetrius, your envoys, and our brothers and fellow-bishops, whose selection has shown that they are acceptable to Your Clemency; for the importance of such an embassy indicates that it could not be entrusted to anyone who is not perfect in Christ, and that You would not have deemed them worthy of a mission involving so much piety and reverence, unless they have been very dear to You. The favor of Our Lord Jesus Christ, the love of God the Father, and the Communion of the Holy Spirit, remain forever with you, Most Pious son. Amen".

The subscription was as follows, "Most Glorious and Clement Son of the Emperor Augustus, may Almighty God guard your kingdom and your health with His eternal protection".

Given at Rome, on the eighth of the Kalends of April, during the Consulate of the Emperor Justinian, Consul for the fourth time, and of Paulinus, Consul for the fifth time.

Title 2. Concerning the most sacred churches, their property and their privileges.

.1The Emperor Constantine to the People.

Let everyone, at the time of his death, have the liberty to leave any portion of his property that he chooses to a most holy and venerable Catholic congregation, and let his dispositions not be set aside; for there is nothing to which men are more entitled than to have free power to exert their last will, as afterwards they cannot do so, and let them be unrestrained, for the right exercised then does not return.

Given at Rome, on the fifth of the Nones of July during the Consulate of Crispus and Constantine-Caesar, each Consul for the second time, 321.

.2The Emperors Gratian, Valentinian, and Theodosius to Pancratius, Urban Prefect.

Let no one think that he has permission to bury human bodies in churches consecrated to the apostles or martyrs.

Given at Heraclea, on the third of the Kalends of August, during the Consulate of Eucharius and Syagrius, 381.

.3The Emperors Honorius and Theodosius.

Let no one sell or purchase the relics of martyrs.

Given at Constantinople, on the fourth of the Kalends of March, during the Consulate of the Prince Honorius, and Evodius, 386.

.4The Same, to Nicenus, Praetorian Prefect.

Let no more than nine hundred and fifty canons be appointed for the Church of this great City, and let no one have the power to add to their number, or to change it, or to substitute others for those who may die; and let none of those of this body who exceed the abovementioned number and have been appointed through patronage, and have been denied the right of innovation, claim those things which have been bestowed upon the Holy Church by way of honor, or as necessary privileges.

Given at Eudoxiopolis, on the seventh of the Kalends of September, during the Consulate of Honorius, Consul for the eighth time, and Theodosius Junior, Consul for the third time, 409.

.5The Same, to Melitius, Praetorian Prefect.

It is decided, after proper consideration, to severely restrict the charges from which churches of different cities shall be held especially exempt; and, in the first place, no injury shall be inflicted by usurpation, and no lands dedicated to the uses of the secrets of Heaven shall be soiled with the filth of base exaction. Nor shall any extraordinary tax be levied, nor a supplementary one be imposed; nor shall any desire for their transfer to the Treasury in default of taxes be manifested. And, finally, no burden shall be imposed upon its functions, beyond that payable under the Canon Law, and such as sudden necessities or contingencies demand. If anyone violates this law, he shall be condemned to perpetual exile or deportation, after having undergone the punishment prescribed for sacrilege.

Given at Ravenna, on the eighth of the Kalends of June, during the Consulate of Honorius, Consul for the ninth time, and Theodosius, Consul for the fifth time, 412.

.6The Same, to Philip, Prefect of Illyria.

All innovation having been abolished, We command that ancient custom and the former ecclesiastical canons which have been in force up to this time shall be observed through all the provinces of Illyria; and if any doubt should arise with reference to them, it must be removed by the knowledge of the Holy Law possessed by that most reverend man, the Patriarch of the Church of the City of Constantinople (which enjoys the prerogatives of Ancient Rome), and the judgment of the ecclesiastical assembly of that City.

Given on the day before the Ides of July, during the Consulate of Eustachius and Agricola, 421.

.7The Same to Asclepiodotus, Praetorian Prefect.

We freely place the care of the Divine Houses and Venerable Churches in the same honorable class with that of highways and bridges, because these are not included among base employments.

Given at Constantinople, on the fifteenth of the Kalends of March, during the Consulate of Asclepiodotus and Marinian, 423.

.8The Emperor Theodosius to Praesidorus, Praetorian Prefect.

Let the Sacred Church of the City of Thessalonica know clearly that it is, through Our indulgence, released from the payment of its own capitation tax; but that it should not injure the State by abusing the ecclesiastical name, in order to prevent the payment of taxes due from others.

Given at Constantinople, on the sixth of the Ides of October, during the fifth consulate of Victor, 424.

.9The Emperors Theodosius and Valentinus to Cyrus, Prefect of the City.

We believe that the frauds of those who, under the pretext of their official position as canons, or members of other religious bodies, whose duties they do not perform,

attempt to evade the charges imposed upon them, should be prevented; therefore, let no one be excused from other duties, under the pretext of some employment which he does not discharge, in order that bankers or money brokers may not refuse to perform the functions of their calling by representing themselves as members of ecclesiastical bodies, or canons. Therefore, if any such person gives himself the mere appellation of the member of an ecclesiastical body, or a canon, let him know that another will be appointed in his place, who will be qualified to discharge the aforesaid employment; and that the substitution of those previously mentioned, or of any who may die, cannot be made except with the consent of the superior of him who is substituted; and that from this date, no one can be excused through reverence for the Holy Church.

Given on the tenth of the Kalends of April, during the Consulate of Theodosius, Consul for the seventeenth time, and Festus, 439.

.10The Same, to Florentius, Praetorian Prefect.

We order that no ship having more than the capacity of two thousand measures of grain shall be excused from the transport of public property, or be released from the public service, either through the privilege of rank enjoyed by the owner, or on account of some personal privilege, or through respect for religion; nor any Imperial decree be cited, or any rescript or pragmatic sanction be put forward as an excuse for not obeying this most wise law. This rule We desire to be observed in all cases, so that, generally speaking, if anything of this kind is advanced against the law or the public welfare, in any matter whatsoever, it shall not be valid. When any attempt whatever to evade this law is made, We shall punish it with the confiscation of the ship whose owner was excused.

Given under the Consulate of Theodosius, Consul for the seventeenth time, and Festus, 439.

.11The Same, to Taurus, Praetorian Prefect.

We order that no one shall be excused from furnishing couriers, horses, and vehicles, or from any other duty, when it is usual for similar service to be furnished during Our journey through all Our provinces, wherever We may stop, even though these possessions may belong to the Holy Churches.

Given at Constantinople, on the thirteenth day of the Kalends of March, during the Consulate of the Emperor Valentinian, Consul for the fifth time, and Anatolius, 440.

.12The Emperors Valentinian and Martian to Palladius, Praetorian Prefect.

We decree that the privileges conceded by former Emperors under the general terms of constitutions, to all the Holy Churches of the orthodox religion, shall be observed, and remain firm and unimpaired for all time.

(1)We command that all pragmatic sanctions which are contrary to ecclesiastical canons and have been obtained through favor or political intrigue, shall be deprived of all their force and authority.

(2)And, for the reason that it becomes Our humanity to provide for those who are poor, and to use Our efforts to prevent indigent persons from wanting food; We order that those things of different kinds which up to this time have been furnished the Holy Churches but of the public property shall remain unaltered, and shall not hereafter be diminished; and We hereby confirm this liberality for all time.

Given during the consulate of Aetius and Studius, 454.

.13The Same, to Palladius, Praetorian Prefect.

We decree by the following general law, that if a widow, a deaconess, or a virgin consecrated to God, or any other good woman, or one mentioned under any other title of religious honor or dignity, believes that she has left either by her will or codicil (which, however, should be executed with all legal formalities), anything either entirely or in part to a church, or a shrine dedicated to a martyr, or to a clerk, a monk, or to the poor, her bequest shall, under all circumstances, remain valid and permanent, whether it was left by the appointment of an heir, or by a substitution, or as a legacy, or under a general or a special trust, or by a nuncupative or written will, in order that no doubt may hereafter arise with reference to matters of this kind.

Given at Constantinople, on the tenth of the Kalends of May, during the Consulate of Anthemius and Valentinian, 455.

.14The Emperors Leo and Anthemius to Armasius, Praetorian Prefect.

We order that no archbishop who may hereafter preside over the Holy Orthodox Church in this Imperial City, or any official to whom the administration of ecclesiastical property has been entrusted, shall have the power, by any kind of alienation whatsoever, to transfer to any person any lands or real estate (either in the city or the country), in short, any immovable property, or any serfs attached to said lands, or any slaves, or any testamentary annuities, or any donations made by a living person to a church. The said lands, however, can be divided, cultivated, increased and amplified, but no one can convey to another any interest in them. If, however, anyone should desire that his patrimony, or any portion of the same, which consists of land with or without houses, or of revenues, slaves, tenants, and the peculium of the latter, shall belong to the above-mentioned venerable church, and manifest his intention either by a will or a codicil, executed according to law, or by a nuncupative will, or by a legacy, a trust, a donation mortis causa, or any other final disposition of the property, or by means of a donation inter vivos, or by a contract of sale, gift, or other title, his disposition of the same shall be valid, and remain unaltered. Let them know that, under no circumstances, and at no time, shall they be prevented from disposing of their property under the pretext of liberality or gratitude, or from alienating it to persons who are willing to purchase the same, provided all members of the clergy, including the bishop and the steward, consent to the alienation of said property; for it is proper to preserve reverently and intact all rights which now or may hereafter belong to the Most Blessed Church, just as religiously as the Holy Church itself, for as the mother of religion and faith is herself perpetual, so her patrimony should remain entire and uninjured for all time.

(1)It is clear that if any steward of the Church or other person should, with audacious spirit and sacrilegious intent, venture to violate this law of Ours, and attempt to acquire or hold with shameless insolence any ecclesiastical lands acquired under the title of donation, purchase, exchange, or any other contract (unless in the manner which We have now established), he shall lose all the fruit of his own boldness, and any price or privilege which, for the sake of favor, may have been given to the said official, or to any other person whomsoever; and it shall be acquired for the profit and the advantage of the Church. Again, any lands which have been obtained in any of these ways by clerks themselves, or temporal stewards, along with their profits, shall be demanded with their rents or accessories for the entire intermediate time, just as if the property had not been purchased or sold; for the reason that whatever is done contrary to law is considered as not having been done at all.

(2)Any steward who has done anything of this kind, or, indeed, permitted it to be done, whether by sale, donation, or exchange (except in the way which we have permitted by the present law), or, finally, who has given his consent to any kind of an alienation, shall be deprived of the administration which has been entrusted to him; and any loss which the Church has sustained shall be repaired out of his property, and his heirs, successors, and descendants shall be liable to an action brought by a competent person appointed by ecclesiastics, whether the damage was caused by his own act, or merely by his acquiescence.

(3)Notaries, who have dared to draw up instruments containing forbidden contracts of this kind, shall be punished with the penalty of perpetual exile.

(4)Judges who have jurisdiction of such matters, and who confirm donations or forbidden contracts of this kind, shall be condemned to lose their office and their property.

(5)And that it may not appear that every method and opportunity of obtaining benefits for the Church have been taken away from religious stewards, We give them permission to proceed cautiously with reference to things which, for the most part, are considered to be useful. Therefore, when a steward belonging to the clergy has a view to the interest of the Church of this Imperial City, and wishes that the temporal usufruct of certain possessions and estates, either urban or rustic, which are the property of the Church, shall be granted to someone who desires it, possession shall be given the latter in accordance with his request; even if the time agreed upon between the parties shall be for the entire life of the person making it, and the steward shall become a party to the contract, and shall sign it, along with the person who has made the choice, and the time for which it is agreed that the usufruct shall be granted shall be mentioned therein, and it shall clearly be stated that whoever has obtained the usufruct of the said ecclesiastical land has received it as a favor; and that, after the time settled and specified has elapsed, the property shall revert to the ownership enjoyed by the Church; so that the term which had been prescribed having expired, or the date of the death of the usufructuary having arrived (if this also should have been agreed upon), he who had acquired the usufruct of any ecclesiastical property and revenues for the purpose of holding the same under the said agreement must, none the less, relinquish to the Church what he had received, including the control of the land itself, and all other immovable property, tenants, and slaves attached to the same. Where, however, agreements had not been entered into in the first place under this

condition, We decree that the grant shall not be valid. and that the ecclesiastical property, not having been legally transferred, shall remain with the ownership, and can be claimed by the clergy or the stewards.

Given at Constantinople, during the Consulate of Jordanus and Severus, 470.

.15The Same Emperors to Sebastian, Praetorian Prefect.

We decree that whatever has been done which is in any respect contrary to the ancient and established principles of the orthodox religion shall be absolutely void; and that whatever relates to the orthodox religion and the faith of the most holy churches and martyrs, shall be firmly established and restored to the condition in which it was before the accession of Our Majesty. With reference to the innovations which took place during the time of the tyranny, not only against the sacred churches whose supervision belongs to the most blessed and reverend Bishop Acacius, Patriarch of Our piety, but also against others situated in different provinces, and their most reverend prelates, whether they were appointed by virtue of a sacerdotal right or obtained their offices through the expulsion of other incumbents during those times, or through the prerogative of the bishop having precedence over others, in or out of the Councils, or by virtue of the privileges of a metropolitan during the former evil days, We declare that these wicked orders, pragmatic sanctions, and impious constitutions, even though they may have been executed with the ordinary legal formalities, are hereby annulled, and rescinded; and We direct that such as were granted or established by the Emperors of Divine Memory who have preceded Our reign, and those which have been afterwards promulgated by Us with reference to holy churches, martyrs, bishops, clerks, or monks shall be preserved inviolate. Moreover, We order and decree that the Holy Church of this most religious community, the mother of our piety, the source of the orthodox religion of all Christians, and the most Sacred See of this Imperial Metropolis, shall legally enjoy all privileges and honors relating to the creation of bishops, in preference to all others, and that it shall be acknowledged to possess and to perpetually and firmly hold, by virtue of this Royal City, all other rights which it possessed before Our reign, or during its existence.

Given on the sixteenth of the Kalends of January, during the Consulate of Armatius, Consul for the fifth time, 476.

.16The Emperor Justinian to Menna, Praetorian Prefect.

The principle set forth in the ancient laws, although obscurely stated, that donations made for pious purposes were valid, even though they had not been inserted into written instruments, We plainly and clearly direct shall stand; just as in other cases, where ancient rights remain intact if they have reference to gifts of this description. When, however, anyone makes a donation of property up to the value of fifty solidi, either to a holy church, to a house for the entertainment of strangers, an infirmary, an orphan asylum, an establishment where indigent persons are sheltered, an old men's home, a foundling hospital to the poor themselves or to some city; such donations shall be valid, if the necessary legal formalities have been complied with. If, however, the donation should be for a larger sum than that above mentioned (except, of course, where one is made by the Emperor), it will be void unless it is set forth in a proper

instrument, for no one shall have the right for any reason, and under the pretext of piety, to change the rules established by the ancients concerning such donations, with the exception of those which We have expressly mentioned.

Given 528.

.17The Same to Demosthenes, Praetorian Prefect.

We order that no one shall be permitted to sell, hypothecate, or pledge any of the most sacred and mysterious vessels, clothing, and other articles which have been donated, and are necessary for the services of the Divine Religion; as even the ancient laws did not sanction that things employed in the celebration of Divine rites should be affected by human liens. We also order that such property can, under all circumstances, be recovered from those who have been so bold as to take it, not only by the most reverend bishops, but also by the ecclesiastical stewards, as well as by the custodians of the sacred vessels; nor shall any actions be granted to the parties in possession of the same, for the recovery of the price received for the said property, or for the collection of interest where it has been pledged, but they shall be refused every action of this kind, and shall, by all means, be required to make restitution. Where, however, the vessels have been melted, or changed in any way, or disposed of, still an action either in rem, in conditionem, or in factum will lie for their recovery, or for their value; a fact which is repeatedly stated in many different sections of the law. An exception, however, is made in instances where any of these events has occurred on account of captivity (which we detest); for if it was necessary for a sale, an hypothecation, or a pledge of the aforesaid sacred property to be made for the purpose of redeeming captives, We permit this to be done; as it is praiseworthy for the souls of men to be preferred to any vessels or vestments whatsoever. We direct that this rule shall apply not only to cases which may occur hereafter, but also to those that are now pending.

.18The Same, to Demosthenes, Praetorian Prefect.

We order that property that comes into the hands of churches, hospitals, monasteries, orphan asylums, old men's homes, foundling hospitals, insane asylums, or any other establishments of this kind, whether it is derived from the liberality of the people, or from donations inter vivos or mortis causa, or from a last will, or has been acquired by any other lucrative title, shall be free and immune from interference; for although the law enacted on this subject exerts all its force with reference to other persons, still, in consideration of piety, its vigor should be relaxed so far as the Church or any other institutions which have been set apart for pious uses are concerned. For why should we not make a distinction between Divine and human things? And why should not the privileges to which it is entitled be reserved in favor of Heaven?

(1)This law shall not only be observed in cases which may arise hereafter, but also in those which are at present pending, and which have not yet been determined, either by a judicial decision or by amicable compromise.

Published at the seventh military of this renowned City, in the new Consistory of the Palace of Justinian.

.19The Same to Julian, Praetorian Prefect.

Although a proper distinction exists between Divine and public law and private convenience, We decree that where anyone leaves an estate, a legacy, a trust, or anything under the title of a donation, or sells anything, either to the Holy Church, or to houses of charity, hospitals, monasteries of men and women, orphan asylums, insane asylums, old men's homes or cities, a long time shall be granted them to recover what has been donated, sold, or bequeathed, and they shall not be barred by ordinary prescription. But where any money or property is bequeathed for the redemption of captives, or for any other lawful object, We decree that a very long time shall be granted for its recovery. And, indeed, according to the dictates of Our heart, actions of this kind should not be barred by the lapse of any length of time; but, in order that it may not be prolonged indefinitely, We have chosen to limit it to the longest period to which the life of man may extend, and have consented that the right to bring this action shall not be barred until after the term of a hundred years shall have elapsed, for only then do We permit the right of recovery of this kind to be extinguished. Therefore, whether an estate, a legacy, or a trust has been left to the above-mentioned most sacred places, or to cities, or whether a donation or a sale of any property movable, immovable, or which can move itself has been negotiated; or whether a bequest has been made for the redemption of captives, or funds donated for that purpose; there shall be an almost perpetual right to recover them, and that right shall be extended for the term of a hundred years (as has already been stated), without any other prescription being allowed, either against the original parties themselves, or their heirs or successors.

(1)In all these cases, We not only grant personal actions but also real and hypothecary ones, in accordance with the terms of Our Constitution which concedes the hypothecary action to legatees and the beneficiaries of trusts; and with reference to all the matters above mentioned We only impose the term of human life, that is to say a hundred years. Again, We order all these things to be observed not only in such cases as may hereafter arise, but also in those which are now pending in court.

Given under the Consulate of Our Lord Justinian, 528.

Title 3. Concerning bishops and other members of the clergy, superintendents of orphan asylums, of hospitals and of charitable foundations, monasteries of ascetics and monks and their privileges; castrense peculium; the redemption of captives; and forbidden or permitted marriages of ecclesiastics.

.1The Emperor Constantine to the Clergy, Greeting:

In accordance with the law enacted some time since for your benefit, on account of your deserts, by the terms of which law no one can compel you or your slaves to pay any new taxes, you will enjoy the privilege of exemption from them; and, moreover, you shall not be required to entertain guests.

Given on the sixth of the Kalends of September, during the Consulate of Placidus and Romulus, 343.

.2The Emperor Constantine and Julian-Caesar to Felix, Bishop.

Let all ecclesiastics be free from the imposition of taxes which are not due, and from the wickedness of unjust exactions; for no agreement having reference to base employments shall be required of them; and while traders are liable to certain contributions, all ecclesiastics shall be exempt from the noise and bustle incident to transactions of this kind. For when they have accumulated anything, either through economy, foresight, or trade (if they know their conduct to have been honorable), they are obliged to devote it to the relief of the poor and needy. Anything which can be acquired or accumulated by the said ecclesiastics in factories or shops, they must consider to have been obtained for the benefit of religion.

(1)The laws of the Divine Emperor, My Father, provide that their employees who are engaged with them in the same occupation, shall also enjoy the same privileges as the clergy themselves.

(2)Hence the aforesaid persons shall be exempt from the necessity and the annoyance of extraordinary burdens.

(3)Nor shall they, or their property, be liable to contribution for travelling expenses.

(4)This privilege is granted to all ecclesiastics, so that their wives, children, and servants, both male and female, and their sons and daughters, shall always remain exempt from impositions of this kind.

Given on the ninth of the Ides of December, during the Consulate of Constantine, Consul for the ninth time, and Julian-Caesar, Consul for the second time, 357.

.3The Same Emperor and Caesar to Taurus, Praetorian Prefect.

In order that your authority may not permit such of the clergy as have lands not only to be released from other liabilities, but also that they may be required to pay the taxes to the Treasury on the lands which are possessed by them, We order that all ecclesiastics possessed of real estate in the provinces shall pay the claims due to the Treasury, otherwise it shall be transferred.

Given on the day before the Kalends of July, during the Consulate of Constantius, Consul for the tenth time, and Julian-Caesar, Consul for the third time, 360.

.4The Same to Taurus, Praetorian Prefect.

Where officials, charged with the collection of the public funds, have not rendered an account of their last or preceding administration, or have appropriated money belonging to the Treasury, and aspire the honors of the Church, they shall be reduced to their previous condition. If, however, after their accounts have been rendered and proper investigation has been made, they are found not to be liable for anything (if their demand has been made with sincerity), this favor shall be granted them with the consent of their superiors, and they need not apprehend the loss of their possessions. But where they have attempted to become members of the clergy by the practice of clandestine arts, two-thirds of their estates shall be granted to their children, or if they

have no offspring, to their next of kin, and they can retain the third part of their own property for themselves. But if they have no near relatives, two-thirds of it shall go to those officials with whom they have served, and only the remaining third shall be reserved for themselves.

Given on the fourth of the Kalends of September, during the Consulate of Taurus and Florentius, 361.

.5The Emperor Jovinian to Secundus, Praetorian Prefect.

If anyone should merely attempt to, I do not say ravish, but marry a consecrated virgin, he shall suffer the penalty of death.

Given on the eleventh of the Kalends of March, during the Consulate of Gratian, Consul for the third time, and Merobaudus.

.6The Emperors Valentinian, Valens, and Gratian to Cataphronius.

We order that priests, deacons, sub-deacons, exorcists, altar attendants, and acolytes shall be exempt from personal employments.

Given the third of the Nones of March, during the Consulate of Gratian, Consul for the third time, and Merobaudus, 377.

.7The Emperor Theodosius said:

"No bishop shall be compelled to give testimony either under the Praetorian or the Civil Law." He also said that it is not fitting for a bishop to be permitted to testify, for this would be a personal hardship for him, and would compromise his sacerdotal dignity, which is exempt from such obligations.

.8The Same, to Paulinus, Augustal Praetorian Prefect.

Priests can give their testimony without subjecting them to the injury of torture, but in such a way that they may not testify falsely. Where other members of the clergy who belong to lower degrees or orders are called to give their evidence, they shall be heard in accordance with what the laws direct; so that litigants may be entitled to the action for deceit against priests who, on account of their superior rank, cannot by the infliction of any corporeal penalty, be compelled to testify, and who, for the reason that they fear nothing, have suppressed the truth. For those are much more worthy of punishment upon whom higher honors have been bestowed by Our command, when they are found guilty of the crime of concealing the facts.

Given on the eighth of the Kalends of August, during the Consulate of Arcadius and Bauto, 385.

.9The Emperors Valentinian, Theodosius, and Arcadius to Tatian, Praetorian Prefect.

Let no woman, unless she has reached the age of fifty years, in accordance with the precept of the apostle, be admitted to the association of the order of deaconesses.

Given at Milan on the eleventh of the Kalends of July, during the Consulate of Valentinian, Consul for the fourth time, and Neotherius, 390.

.10The Emperors Arcadius and Honorius to Theodore, Praetorian Prefect.

If anyone should be guilty of the sacrilege of forcing his way into a Catholic Church, or doing any injury to the priests and ministers, to the service, or to the place itself, he shall be punished by the provincial authorities, so that the head of the priests of the province and of the ministers of the Catholic Church may know that the culprit has received a capital sentence, whether he has been convicted, or confessed that he was guilty of committing an offence against the place itself, or the worship of God, without waiting for the bishop to demand punishment for the injury inflicted upon him, as his sanctity does not allow him to take notice of it; and it shall be praiseworthy for all persons to prosecute any atrocious injuries committed against priests or ministers of religion as public crimes, and their perpetrators as deserving of punishment. If the number of those guilty of violence is so great that they cannot be arrested by the civil authorities, with the assistance of the people, for the reason that they defend themselves by arms, or are protected by the difficulty of access to the place, the Governors of the provinces shall not hesitate to call for military assistance by public proclamation, and inflict suitable punishment for an offence of this description.

Given at Milan, on the seventh of the Kalends of May, during the Consulate of Honorius, Consul for the third time, and Eutychianus, 398.

.11The Same to Eutychianus, Praetorian Prefect.

In churches which are in the possession of different persons (as is customary), or which have been established in villages or any other places whatsoever, members of the clergy are not ordained who belong to any other parish or village than that where the church is situated, so that they may assume the burden and responsibility of their own establishment; and only a certain number of the clergy can be ordained by the bishop, according to the size and means of each parish.

Given on the third of the Kalends of August, during the Consulate of Honorius, Consul for the fourth time, and Eutychianus, 398.

.12The Same to Eutychianus, Praetorian Prefect.

When any member of a curia receives holy orders, and, after having been warned, is not returned to his former condition, he can immediately be reduced to it by the power and authority of the judges, through the employment of force; for we do not permit the clergy to profit by the former law which did not forbid decurions to become ecclesiastics, provided they had given up their property.

Given on the sixth of the Kalends of August, during the Consulate of Honorius, Consul for the fourth time, and Eutychianus, 398.

.13The Same to Fidianus, Vicegerent.

If the privileges of a holy church have been violated by the rashness of simulated ignorance of anyone, he shall be punished with a fine of five pounds of gold.

.14The Same to Adrian, Praetorian Prefect.

If anyone who has been removed from the office, and deprived of the title of bishop by a convocation of ecclesiastics, should be convicted of having plotted against the public order and tranquillity, and again seek the sacerdotal position from which he was deposed, he shall be compelled to pass the remainder of his life a hundred miles from the city whose peace he disturbed; shall not have access to Us, nor hope to obtain a rescript for his benefit; but he shall be deprived of even such as he may have obtained, and those who defend him shall be the objects of Our indignation.

Given at Ravenna, on the day before the Nones of February, during the Consulate of Stilicho and Aurelian, 400.

.15The Same to Studius, Urban Prefect.

We forbid persons to hold religious assemblies in private houses, even outside the Church, under the penalty of confiscation of the house, if the owner of the same permitted ecclesiastics to hold new and tumultuous meetings therein outside the church.

Given at Constantinople, on the fourth of the Kalends of September, during the Consulate of Honorius, Consul for the seventh time, and Aristenetus, 404.

.16The Emperors Honorius and Theodosius to Anthenius, Praetorian Prefect.

Let any serf attached to the glebe abstain from every ecclesiastical office, if the owner of the land does not give his consent; so that if he has been ordained in the place where he was born, he can assume the duties of the priesthood under the condition that his master will agree to pay the taxes to which he is liable, and is willing for someone to be appointed in his stead to perform his duties; with the understanding that immunity shall be granted from any taxes from which churches are exempt. No rescript promulgated against this law shall be valid.

Given during the Consulate of Honorius, Consul for the eighth time, and Theodosius, Consul for the third time, 409.

.17The Same to Maximus, Praetorian Prefect.

It pleases Our Majesty that members of the ecclesiastical order shall not interfere in any way with public acts or political affairs with which their profession has no concern.

(1)Moreover, We do not give permission to those who are called parabolani to be present at any public exhibition, or at assemblies of the people, or in court, unless they do so in cases of their own when they are required to appear, either for the purpose of bringing an action against someone, or where they themselves are sued, or where one

has been appointed as the representative of their entire body. If anyone violates this regulation, he shall be expelled from the parabolani, be subjected to suitable punishment, and never be restored to his former position.

Given at Constantinople, on the third of the Kalends of October, during the Consulate of Theodosius, Consul for the seventh time, and Palladius, 416.

.18The Same to Monaxius, Praetorian Prefect.

We order that the parabolani, who are appointed to take charge of the sick, shall be limited to six hundred in number, and that the said six hundred parabolani selected for duties of this kind shall be appointed by the most reverend Bishop of Alexandria from among those who formerly acted as such, and who, in consequence, are experienced in the care of persons who are ill; those, of course, being excepted who have been invested with office, and are members of the curiae. If, however, any of these should die, another shall be appointed in his place by the above-mentioned bishop, with the exception of those who have held office and belong to the curiae; so that the said six hundred shall be subject to the orders and at the disposal of the Most Reverend Bishop, and shall act under his supervision. All other provisions which have formerly been established under the law previously enacted with reference to parabolani, whether they relate to exhibitions or proceedings in court, shall be observed (as has already been established.(

Given at Constantinople, on the third of the Nones of February, during the Consulate of Honorius, Consul for the twelfth time, and Theodosius, Consul for the tenth time, 418.

.19The Same to Palladius, Urban Prefect.

He who pursues a proper course of conduct in the world should not have his reputation tarnished by intimacy with a woman whom he calls his sister. Therefore everyone, no matter what rank in the priesthood he may hold, or what ecclesiastical distinction may have been conferred upon him, must take notice that association with strange women is forbidden him, and that permission is only granted to have his mother, his daughter, or his sister occupy his house with him; for natural relationship prevents anything criminal from being suspected in cases of this kind. The love of chastity induces Us not to exclude any who, before the ordination of their husbands, were worthy of lawful marriage, for those may not improperly be permitted to associate with members of the clergy, who, by their companionship, have rendered their husbands worthy of the priesthood.

Given at Ravenna, on the eighth of the Ides of May, during the Consulate of Theodosius, Consul for the ninth time, and Constantius, Consul for the fifth time, 420.

.20The Emperors Theodosius and Valentinian to Taurus, Praetorian Prefect.

Whenever a priest, deacon, deaconess, sub-deacon, or member of any other ecclesiastical order, monk, or woman consecrated to a solitary life, dies intestate without leaving any relatives of either sex, children, or connections by affinity or cognation, or a wife; any property that the said ecclesiastic, or conobite of either sex

left, and which would have belonged to him or her, shall pass to the church or monastery to which they were appointed; with the exception of anything that may be due as taxes, or liable under the right of patronage, or for which the said persons were responsible on account of his membership in a curia. For it is not just that property forming part of a peculium and to which a patron has a legal right, or the owner to whom the person in question was subjected is entitled to possession of; or which is known to belong to the curia under certain conditions, in accordance with the tenor of the constitution formerly promulgated, should be retained by churches or monasteries; still, the churches or monasteries retain the rights of action vested in them, where anyone is liable under the aforesaid conditions, or dies bound on account of any transaction, or any ecclesiastical matter whatsoever.

Given on the eighteenth of the Kalends of January, during the Consulate of Ariovindus and Asper, 434.

.21The Same Emperors to Thomas, Praetorian Prefect.

As in the case of bishops of the orthodox faith, so in that of priests and deacons, those who have obtained illustrious rank by means of an honorable title are not forbidden to discharge, by means of substitutes and at their own risk, the official duties imposed upon them by curiae.

Given at Constantinople, on the fourth of the Nones of April, during the Consulate of Isidor and Senator, 436.

.22The Same Emperors to Florentinus, Praetorian Prefect.

If any malicious accusation of a criminal offence should be brought before a competent judge against a bishop of the Holy Religion, and the case should be dismissed, We order that the accuser shall be condemned to pay a fine of thirty pounds of gold to the Treasury.

(1)Moreover, We order that all privileges which have been granted by the laws to the holy churches for the benefit of refugees, clerks, deans, or any other ecclesiastics, shall remain intact and unimpaired.

(2)We also order that all members of the clergy and monks who, for the purpose of transacting ecclesiastical business, or on account of religion, have travelled from their own country to this Fair City, shall be furnished with letters of the bishop to whom each of them who makes the journey owes obedience; and they are hereby notified that if they do not comply with this rule, they alone will be to blame if they are not considered clerks or monks.

Given under the Consulate of Theodosius, Consul for the seventeenth time, and Festus, 439.

.23The Emperors Valentinian and Martian to Palladius, Praetorian Prefect.

As Fabianus, of venerable memory, Bishop of this Fair City, was held in such high esteem by the almost innumerable ecclesiastics assembled at Chalcedon, that

Eutyches, who held contrary religious opinions, was, with all his wicked doctrines, unanimously condemned, let the impious memory of Eutyches be consigned to oblivion, and the praiseworthy memory of Fabianus be exalted.

Given at Constantinople, the day before the Nones of July, during the Consulate of Asporatius.

.24The Same to Palladius, Praetorian Prefect.

A bequest left by a will or a codicil to the poor, shall not be considered void, as having been bequeathed to uncertain persons; but in every respect shall stand as valid and unimpaired.

.25The Emperor Martian to Constantine, Praetorian Prefect.

When members of the clergy are summoned to court, they have a right to take their cases before the tribunals of the bishop, provided the plaintiff consents. If, however, he should be unwilling to submit the matter to the decision of the Most Reverend Archbishop, or to bring it before your most eminent tribunal, the investigation against the Catholic clerks appointed by the Most Reverend Archbishop of this City, or against the Most Reverend Steward, not only with reference to their own private affairs, but also those in which the Church is concerned, he must not attempt, either in a civil or a criminal proceeding, to cite the said clerk into any other court, or before any other judge.

(1)Moreover, when the most reverend clergy of the orthodox churches previously mentioned � which churches are under the jurisdiction of the Most Religious Archbishop of this Illustrious City � appear before the tribunal, either in person or by attorneys appointed by themselves, they shall be punished by your authority; and they must present to the bailiffs, by whom they have been summoned, the steward or defender of the Most Holy Church of this City, who shall become liable for them as surety, to the amount of fifty pounds of gold. The Most Reverend Steward of the Church of this Fair City, when summoned to court, shall not provide a surety for himself, inasmuch as he is expected to appear as surety for other members of the clergy; but reliance should be placed upon his good faith. Where, however, several of the clergy are involved in litigation (with the exception of the Most Reverend Steward) and the amount in dispute appears to exceed that which We have mentioned, each clerk who is summoned shall furnish the bailiff with a bond for the amount in excess; but no oath shall be required, for the reason that clerks are, in compliance with the ecclesiastical regulations and canons established in ancient times by the most blessed bishops, forbidden to be sworn.

(2)We, however, have decided that the Most Reverend Steward, or the other members of the clergy who are subject to the jurisdiction of the Most Blessed Bishop of this Most Splendid City, relying upon the authority of your decision, shall only pay two solidi to the bailiffs for their citation, and for the appointment of an attorney, if they desire to try the case by his agency. We order that whatever is usually done in other cases with reference to the various attendants of your eminent tribunal shall be observed in those of the aforesaid members of the clergy; and that the costs and

expenses of the suit paid by members of the clergy shall be smaller in amount, and imposed with greater indulgence than those to which others are subjected.

Given on the eighth of April, during the Consulate of Vararius and John, 456.

.26The Emperor Leo to Julian, Praetorian Prefect.

We decree that, hereafter, no monk, nor anyone else, no matter what his station or rank, shall unlawfully attempt to carry the Holy Cross, or the relics of the martyrs into any public house or place of any description, which has been set apart for the pleasure of the people; or shall venture to take possession of any building which has been erected for public purposes, or popular amusement. For, as religious houses are not lacking, after the episcopal authorities have been consulted, as is necessary, the relics of the holy martyrs can be placed therein, not by the arbitrary action of anyone, but by the authority of the Most Reverend Bishops. Hence Our laws, public discipline, and the reputation of the monks themselves, demand the exercise of patience and moderation, and each monk, as well as every member of other orders, should zealously attempt always to practice these virtues.

.27The Same to Eutychius, Praetorian Prefect.

Anyone who, after having been discharged from the army, or having completed his term of office, has been released from the public duties to which he was liable by his condition, by custom, or by law, associates with members of the clergy, and prefers and desires to be included among the ministers of the true orthodox faith, cannot be restored to his former status, by the severe terms of any decision; nor shall he be removed with evil intent from the temples of God to which he has consecrated himself, but he shall remain secure and quiet in those most blessed employments to which, with the best resolutions, he has devoted himself for the purpose of obtaining rest during his remaining years, after the weariness of a long, laborious life. If, however, any actions should with lawful intention be brought against himself or his property, he must answer as required by law; with the exception of members of the first company of the triarii, whom the provisions of the most Sacred Constitutions have declared shall always be subjected to the precepts of your authority, as well as to the requirements of the public welfare.

.28The Emperors Leo and Anthenius to Nicostratus, Praetorian Prefect.

We decree that no one, whether he has been appointed an heir by will or obtained succession ab intestato, or is the beneficiary of a trust, or a legatee, shall be permitted, with malicious intent, to infringe or violate the dispositions of a pious testator by alleging that a legacy or a trust is uncertain, when a bequest has been left for the redemption of captives; but We command that the money shall, by all means, be collected and employed for the benevolent purpose designated by the will of the testator.

(1)If, indeed, a testator should indicate the person by whom he desires the redemption of the captives to be accomplished, he who was especially appointed for that purpose shall have the right to collect the legacy or the money left in trust, and carry out the wishes of the testator, in accordance with the dictates of his conscience. But when no

person has been designated with this end in view, and the testator has merely fixed the amount of the legacy or the trust, which is to be used as above mentioned, the Most Reverend Bishop of this City, where the testator was born, shall have the power to collect the money which was left, and shall, without any delay (as is proper), carry out the pious intentions of the deceased.

(2)Moreover, as soon as the Most Reverend Bishop shall have obtained the money left for this benevolent purpose, after having complied with the proper formalities, he must immediately inform the Governor of the province of the amount, and of the date when he received it. We order that, after the expiration of a year, he shall render an account of the number of captives ransomed, as well as of the sums paid out for this purpose, so that the pious wishes of deceased persons may, in every respect be complied with; but the Most Sacred Bishops must perform the acts above mentioned gratuitously, and without any expense, in order that the money left with a charitable object may not be wasted in litigation.

(3)Where the testator who left a legacy or a trust of this kind, without designating anyone to have charge of it, belongs to a barbarous nation, and any doubt arises with reference to his country, the Most Reverend Bishop of the town in which the said testator died, shall have the right to demand the legacy, or the trust, and shall carry out the intentions of the deceased in every respect.

(4)When a testator dies in a village or in the country, the Most Reyerend Bishop having jurisdiction over the said village or district shall be entitled to claim the bequest.

(5)And, in order that the pious intentions of the deceased may not be circumvented by malicious cunning or fraud, We permit all persons who know that any property was left by the testator for this purpose to notify the illustrious Governor of the province, or the bishop of the city. Nor shall they have any reason to fear that the name of informer will be applied to them, as not only their fidelity and industry but also their piety is worthy of praise and honor, as they have brought truth and valuable information to the ears of public officials.

.29The Same to Armasius, Praetorian Prefect.

Where anyone, by the grace of God, is raised to the dignity of bishop, either in this Imperial City, or in any other of the provinces of the Empire scattered over the entire world, this should be done with the purest human intentions, with a consciousness of merit in the choice, and with sincere approval of all. No one shall purchase any office in the priesthood by the use of money, for each one must be estimated according to his deserts, and it is not sufficient to calculate how much he can pay; for, indeed, what place will be secure, and what excuse will be valid, if the holy temples of God are obtained by the use of money? What protection can we provide for integrity, or what defence for the Faith, if the thirst for gold creeps into our sacred places? And, finally, what precaution or security will avail, if the holiness which should be incorruptible is corrupted? Let the profane ardor of avarice cease to threaten our altars, and let this disgraceful crime be banished from our holy sanctuaries. Therefore, in our times, chaste and humble bishops are selected, so that, wherever they may go, they will purify everything with the morality of their own lives. An archbishop is ordained not

with money but with prayers, and he should also be so destitute of ambition as to be compelled to take the office tendered him, and, having been re.quested, he should decline, and having been invited, he should flee; so that necessity alone may be an excuse for acceptance. For surely he is unworthy of the priesthood unless he is ordained against his consent; since, if anyone should be convicted of having obtained this Holy and Venerated Archipiscopal See by the employment of money, or of having ordained another, or chosen him for some valuable consideration, he ought to be punished just as a person who has committed high treason, and be degraded from his rank in the priesthood. We decree that he shall not only be ineligible to this honor hereafter, but be condemned to perpetual infamy, so that the same penalty may be inflicted upon those who are defiled by the same crime.

Given at Constantinople on the eighth of the Ides of March, during the Consulate of Martian and Zeno.

.30The Same to Dioscorus, Praetorian Prefect.

We order that the superintendents of orphan asylums in this Renowned City (where no provision of the law prevents), who are, as it were, the guardians of wards and the curators of minors, shall have the right to act as plaintiffs or defendants, without being compelled to furnish security with reference to persons and their business (if they have any), both in and out of court, as necessity may require, just as guardians and curators do; so that the property of the persons aforesaid may be transferred to them by those having charge of the same, in the presence of public officials, that is to say, notaries; or an inventory shall be made in this Renowned City, before the master of the census; or in the provinces, before the Governor, or the defender of the district, and if they ascertain that any of said property should be sold, for instance, to pay interest or for some other urgent reason, they shall be permitted to make a contract to alienate the same, after an appraisement has been made; and the price of the said property obtained from this source shall be placed in the hands of the same persons. It is proper for superintendents of orphan asylums to discharge their benevolent and religious duty for the time, without being obliged to render accounts as guardians or curators; for it is hard, and even unjust that those who, through fear of God, have supported minors without parents or property, and have exerted themselves to rear them with parental affection, should be annoyed by the cunning machinations of others (if this should take place.(

.31The Same to Eutropius, Praetorian Prefect.

All priests and members of the clerical order, wherever they are, or who may hereafter be ordained in the orthodox faith, no matter what their rank, as well as all monks, shall not be compelled to appear in civil cases through the rulings or citations of superior or inferior magistrates; nor shall be forced to leave any province, district, or region, in which they live; and none of them shall be ordered, through unfortunate necessity, to abandon the churches or monasteries, in which they reside through devotion to religion; but they shall appear before the ordinary judges, that is to say, the Governors of the provinces, in which they reside, where they may perform their duties to their churches, and defend all actions brought against them; so that, during the hours and time when men devoted to a religious life ought to be free from the turbulent proceedings of the courts, or when the malicious intent of their adversaries

leaves them at rest, betaking themselves to their monasteries and sacred churches, by their self-reliance and the employment of their earnest prayers they may, the more readily, perform the services of the sacred altars where they have their domiciles.

(1)If anyone for some reason should wish to institute legal proceedings in this Royal City against a bishop, a priest, or other ecclesiastic attached to the Holy Churches, or against any monks, no matter in what provinces they may be found; he shall not be permitted to summon them before any other tribunal than yours, where the honor due to Your Blessedness must be paid by them, and a proper number of advocates shall be furnished them for their defence.

(2)Moreover, when the priests themselves, or any other members of the clerical order, are called together in a province by a sentence or decree of the Governor of the same (provided they are approved as orthodox), they who are brought into court in their own cases and on account of their own contracts shall not provide any other sureties than the defenders of the Church itself, or those who are styled stewards; lest the pertinacious and grasping avarice of the bailiff may exact other and solvent sureties, and the greatest hardship be inflicted upon innocent poverty.

(3)If any priests of the Holy Orthodox Faith, or stewards or defenders of the Church, or other clergy should be found in this Illustrious City who have come from any other province, and are summoned before your tribunal (which is the only one before which We permit them to be summoned), they shall not be subjected to the trouble of furnishing sureties, but they can either become sureties for one another (which should be done in the solemn way in which stipulations are entered into), or their bonds or declarations can be given as security, or their property may be encumbered for that purpose.

(4)It must, nevertheless, be observed that no one should be sued in an ecclesiastical case, except he who has charge of the poor, that is to say, the steward of the Church, who has been appointed by the bishop; for there is no doubt that he should be appointed by him. We, however, order that he who has been sued shall furnish the defender of the Church as surety.

(5)The officials of inferior tribunals, in all cases where priests or other members of the clergy are sued, shall not be entitled to receive more than half of an as, whether the case is tried or not. If, however, an officer of your tribunal should serve notice upon persons who reside in a province, We order that he shall not receive more than two solidi, as his fee. In this Magnificent City, however, the said officials of your tribunal shall be content with an aureus paid by residents of a province, by way of fee, no matter for what sum the defendant may have been sued.

(6)Again, no bailiff shall attempt to annoy members of the clergy with insults, or abuse, or outrages, or with corporeal injury; and those who do anything of this kind, after having been deprived of their offices and patrimony, shall be punished with the greatest severity.

(7)Where, indeed, any privileges granted to a Holy Church of the orthodox faith, or to those charged with the entertainment of strangers, or ptochotrophei, whether generally, or specially conferred, shall be perpetually observed; and We order that

none of them, either priests, or other members of the clergy (no matter of what rank they may be), nor any monks or ptochotrophei, or those appointed for the entertainment of strangers who belong to the orthodox faith, shall be subjected to extraordinary charges; for We think that it is improper in our century for burdens from which We have released many persons for a different reason should be imposed upon the most blessed members of the clergy.

(8)Moreover, in order that no one may profit by his rashness, and that the impudent audacity of calumniators may be restrained, We order that, when those who have brought suit against priests, clerks, monks, or the other persons hereinbefore mentioned, either before your august tribunal, or before that of the province, and they are proved to have done so without just cause, and lawful intention, they shall be compelled to refund to the said parties all lawful expenses and costs which they are found to have incurred on account of the improperly brought action, from the very beginning; in order that those who are in the habit of employing their time in bringing unjust lawsuits may be restrained by the fear of proper censure, and remain quiet, and the clamor of controversy having been silenced, they may, through necessity, become accustomed to restrain themselves hereafter.

.32The Same to Eutropius, Praetorian Prefect.

The bishops, priests and deacons of the holy orthodox faith, who are deserving of this honor, and whose morals have been approved by perfect chastity, can acquire and hold as their own everything which they could have acquired and held at any time while occupying the rank and place of members of the clerical order, even though they may be under the control of their father, grandfather, or greatgrandfather, who is still living; just as they have a right to claim as their own any property which they are permitted to dispose of either by will, gift, or any other method of alienation; and such property shall never, at any time, be divided or descend to their brothers or sisters, or the successors of the latter, but shall go to their children, their descendants, and any foreign heirs, and shall not be claimed by their fathers, grandfathers, or great-grandfathers, but by their own offspring through preference. And, indeed this peculium shall belong to those who are entitled to it, either by alienation during the lifetime of the parties, or by their last will at the time of their death.

Given on the fifth of the Kalends of April.

.33The Same, to Dioscorus, Praetorian Prefect.

We decree that all the privileges which have been granted by the Emperor who preceded Us, or by Our Own Majesty; or by judicial decisions, or by any liberalities bestowed at any time; or by custom or by a constitution; or by surveyors; or which are derived from any other source whatever, for the benefit of orphan asylums, hermitages, churches, homes for old men, houses of entertainment for strangers, or monasteries, or which have reference to other men or property which are under the care of the steward Nicon, a most pious priest and superintendent of orphans, or his successors, as in the case of Zodicus of blessed memory, who is said to have been the first one to have founded an establishment of this kind for charitable purposes, shall always be observed unaltered and unimpaired by virtue of this formal Decree. For this, indeed, seems to be necessary, as the support and education of boys and poor persons

depend upon these grants, and they are destined for ecclesiastical uses, and for the support of old men's homes and hermitages. We also decree that the houses and other property above mentioned as being under the care of the man aforesaid, or which may hereafter, in any way, come under his supervision, or that of those who may be summoned after him to take charge of the said orphan asylums, as in the case of the Holy Church of this Renowned City, shall in consideration of their piety, forever enjoy all the privileges which are now granted, or may hereafter be conferred upon the said Holy Church.

.34The Same Emperors to Sebastian, Praetorian Prefect.

In accordance with an ancient constitution, We order that any ordination of serfs shall be of no validity, unless the consent of the owners of the land to which said serfs are attached shall previously have been obtained; and We order that the said owners shall have power to exercise all their rights over the said serfs to whose ordination it is evident they have not given their consent (as has been stated) as in the case of their other tenants, just as if they had not been created members of the clergy. We decree that the same rule shall be observed with reference to serfs who, desirous of a monastic life, have applied to any monasteries for admission, against the consent of the owners of the land to which they are attached.

(1)We forbid slaves to join assemblies of the clergy under all circumstances, even if their owners are willing, and give their consent; as the latter have a right, after having previously liberated their slaves, to open the way for them to receive the honors of the Church if they desire to do so.

(2)Moreover, We decree that all members of the clerical order, whether bishops, clergy, monks, or ecclesiastics of any rank whatsoever, shall obey the decisions of the illustrious authorities of the provinces, without availing themselves of any privilege (provided they are subject to their jurisdiction); and that, hereafter, the eminent Governors of the provinces shall not be compelled to go to those places where the accused persons live; as it is not only in conformity with the ordinary laws, but also with natural law, that those who are summoned to court by judicial citation should present themselves there, and not that the magistrates in person should repair to them (which indeed would be improper); but they must order the trial of their cases to proceed before judges appointed by them, in the places where the accused parties reside.

.35The Same Emperors to Sebastian, Praetorian Prefect.

The permission to embrace a monastic life is not refused to slaves who have obtained the consent of their masters, provided the latter are not ignorant of this fact. Where, however, they have given their slaves the power to enter a monastery, We think that they should be deprived of their ownership of said slaves, so long as they remain in the monachal condition. It is otherwise if they have abandoned a monastic life, and assumed any other condition, as it is certain that, under such circumstances, they must be returned to the yoke of slavery which they escaped by their adoption of the monastic profession.

Given on the Nones of February.

.36The Emperor Justin to Archelaus, Praetorian Prefect.

We think that the admonition should be renewed, and notice should not only be given to the judges of all tribunals, but also to the defenders of the churches of this Fair City, among whom has crept the base practice of dictating the last will of dying persons, that they should be warned not to interfere in such matters, as no one, in accordance with the precepts of the constitutions, is authorized to do so, except the official having charge of the census; and, indeed, it is absurd, and even reprehensible for the clergy to desire to show themselves learned in legal matters. Those who venture to disobey this decree shall have a fine of fifty pounds of gold imposed upon them.

Dated at Constantinople, on the thirteenth of the Kalends of December, during the Consulate of Justin, Consul for the eleventh time, and Opilio.

.37The Emperor Justinian, to John, Praetorian Prefect.

If anyone, desiring to evade the Falcidian Law, should attempt to leave his entire estate for the ransom of captives, by appointing them his heirs, in order that it may not appear that uncertain persons have been appointed heirs, and the will which he left may not be attacked, We decree that an appointment made in this manner shall be valid through considerations of piety, and shall not be rejected.

(1)But when a testator appoints the poor his heirs, and no asylum for the poor exists, and the poor of a certain church whom the testator may have had in his mind are not mentioned, but the poor under an indefinite designation are appointed his heirs, We decree that an appointment of this kind shall likewise be valid.

(2)If, indeed, he should appoint as his heirs the captives belonging to a town in which the testator had his residence, and passed his life; the bishop and the steward shall receive the estate, and it shall, by all means, be employed for the ransom of captives whether by means of its annual income, or by the sale of personal property, or of property which can move itself; but, under no circumstances, shall either the steward, the bishop, or the church profit in any way on this account. Where, however, a special heir has been charged with this duty, under the condition that he shall not claim the Falcidian portion, he will be entitled to the estate; for why should it be tolerated that what has been left for a charitable purpose should be diminished by the Falcidian portion, or in any other way?

(3)When the poor have been indiscriminately appointed heirs, the hospital of the city shall, by all means, obtain the estate; and a distribution of the same shall be made among the invalids by the superintendent, according to the rule which We established with reference to captives, whether the annual income distributed among them be obtained by the sale of movable property or by that of property which can move itself, so that land may be purchased, and their support for the year be provided. For, who is any more indigent than persons who are oppressed with want, confined in a hospital, afflicted with bodily ailments, and unable to obtain the food necessary for their subsistence?

(4)Permission to institute proceedings and collect debts should, by all means, be granted in both these instances, in order that the money obtained may be employed for the benefit of captives and persons who are ill; for if We have given them the rights and name of heirs, without, however, the benefit of the Falcidian Law, they must still collect debts and satisfy creditors.

(5)When, however, there are several hospitals or asylums for the poor in the place, in order that a pecuniary bequest may not appear to be uncertain, We decree that the money or the property shall be given to the one which is known to be the most needy, and this should be decided by the bishop of the diocese and the clergy subject to his authority.

(6)But if there is no hospital in the city, then, in accordance with the Decree which We have rendered with reference to captives, the steward of the Holy Church, or the bishop, may accept the estate; and the money shall be distributed to the poor who are in the city, or to mendicants, or to persons needing support without reference to the Falcidian Law.

(7)We order that all these things shall take place whenever no specified hospital, asylum for the poor, or church has been mentioned by the testator, and his intention is ambiguous. If, however, he had in mind any certain person, or any particular religious establishment, We direct that he or it, only, shall be entitled to the estate or the legacy, without, in this instance, any consideration being paid to the Falcidian Law.

(8)But in all cases of this kind, the administrators of sacred property must expect the anger of Heaven if they acquire for themselves any pecuniary benefit from services of this kind, or if they consent, that others may profit by them; and do not endeavor to punish with the severest penalty and warning what has been wrongfully done.

.38The Same to John, Praetorian Prefect.

As the most pious bishops, priests, and deacons, were permitted under the Leonine Law to have a quasi-castrense peculium as well as to dispose of property by will; it was doubted whether such wills should be attacked by a complaint as inofficious; and the same question arose with reference to all those persons who are entitled to a peculium of this description. Therefore, We order that the most reverend bishops, priests, and deacons, who possess quasi-castrense peculium of this kind, can not only dispose of it by a last will (which is established by the Leonine Constitution), but also that their last wills disposing Of property of this kind shall, under no circumstances, be subject to a complaint on the ground of inofficiousness.

Given at Constantinople, on the Nones of February, after the Consulate of Lampadius and Orestes, 352.

.39The Same to John, Praetorian Prefect.

If anyone, when signing a document, should state that he will not make use of the exception to which he is entitled on account of his calling as a priest, We decree that he shall not be permitted to violate his contract and deceive those with whom he made it; as it is an ancient rule of law that all persons have the right to renounce any

provision made in their favor. We order that this general law shall obtain in all cases which have not yet been settled by judicial decision or amicable agreement.

Given at Constantinople, on the seventh of the Kalends of September, after the Consulate of Lampadius and Orestes, 352.

.40The Same to John, Praetorian Prefect.

We decree, generally, that all Most Reverend Bishops as well as priests, deacons, and sub-deacons, and especially monks (although they are not clerks), shall be exempt by law from administering every kind of guardianship, whether testamentary, legal, or appointive; and that they shall not only be exempt from guardianship, but also from the curatorship of wards, minors, and the insane, the dumb and deaf, and all other persons to whom guardians or curators were assigned by the ancient laws.

(1)We permit clerks and monks who are attached to the holy churches or monasteries to enjoy this privilege, and do not wander about, or are negligent in the performance of their religious duties; for We have granted it to them in order that, having renounced everything else, they may devote themselves to the service of Almighty God.

(2)We order that this law shall be observed not only in ancient Rome, but also in this Imperial City, and in every country where the name of Christian is honored.

.41The Same to Hermogenus, Master of the Offices.

We decree that ravishers of virgins, widows, or deaconesses, consecrated to God, shall suffer the penalty of death, as having committed the worst of crimes, which is not only an injury to man, but also displays a want of reverence for Almighty God himself. Therefore, those who commit an offence of this kind, as well as those who give assistance at the time of the attack, and are caught in the act by the parents of the holy virgins, widows, or deaconesses aforesaid, or by their relatives, guardians, or curators, if convicted, shall be put to death. Where, however, after having committed such a detestable crime, the ravisher is able to defend himself by force, or to escape by flight, the illustrious Praetorian Prefects in this Imperial City, as well as the most eminent Urban Prefect, and the distinguished Praetorian Prefects of the provinces of Ilyria and Africa, all military commanders throughout the regions of Our Empire, the distinguished Prefect of Egypt, the Deputies and the Proconsuls, the eminent officers of the army, the illustrious Governors of provinces, together with the judges of every rank who are in those places, shall exert equal zeal and the greatest care of which they are capable, to seize the guilty parties, and after they have been arrested for such a crime, and been convicted by evidence recognized by the law, they shall, without granting them the right to plead an exception, subject them to the most severe penalties, and condemn them to the punishment of death. If this offence has been committed against a consecrated virgin who is residing either in an hermitage or a monastery, whether she has been appointed a deaconess or not, the property of the culprit shall be transferred to the monastery or hermitage to which she was consecrated, and out of said property a sufficient portion shall be given to her for life, by way of consolation; but the sacred hermitage or monastery shall have the complete ownership of all of said property. Where, however, the deaconess is attached to the

Church, and does not belong to any monastery or hermitage, but lives by herself, the property of her ravisher shall be assigned to the church in which she is a deaconess, and she shall enjoy the usufruct of said property through the said church as long as she lives; but the church shall have the entire ownership and possession of the same by virtue of the grant due to Our indulgence. No judge or any other person whosoever shall dare to violate this law. The penalties which We have mentioned above, that is to say, death and confiscation, We establish not only against the ravishers themselves, but also against those who accompanied them in the attack and rape. We also subject to capital punishment any others who may be convicted of having guilty knowledge of, and of acting as accomplices in this crime, whether they concealed the culprits, or gave them any assistance, no matter whether they are male or female, or what may be their condition, rank, or dignity, in order that all may undergo this penalty whether the consecrated virgin or other women above mentioned did or did not consent to the perpetration of such an atrocious deed.

Given at Constantinople, on the fifteenth of December, during the Consulate of Our Lord Justinian, Consul for the second time.

.42The Same to John, Praetorian Prefect.

We desire that, with Divine aid, everything which is for the honor of the Holy Catholic Church, and is pleasing to God may be done, and We wish to establish this by law, and accomplish it by Our own acts. With His assistance We have already sanctioned many regulations which were in agreement with the doctrines of the Church, and, at present, after pious deliberation, We intend to correct whatever, up to this time, has been committed against the fear of God. It is well known to Us that if either a betrothed man or woman, after the customary gifts had been bestowed and accepted, should wish to consecrate himself or herself to the service of religion, and retire from intercourse with the world to lead a holy life, and continue in the fear of God, the man will be compelled to lose the property which he bestowed as a gift, and the woman will be forced to restore double the amount which she received; which seems to be contrary to the benign spirit of our religious belief. Wherefore by the present law, which shall remain forever valid, We order that whenever any betrothed man or woman desires hereafter to renounce the life of the world, and dwell in association with the righteous, the betrothed man shall receive all the property which he bestowed as a gift upon his intended wife, without any diminution whatsoever; and the betrothed woman shall not surrender double the amount (as has been the case up to this time), to her betrothed husband, but only what she received as the gift of betrothal, and she shall be compelled to restore no more than what she is proved to have obtained. Provision has already been made by Us under a former law, with reference to husbands and wives who renounce the world, so that if either a husband or a wife withdraws from marriage on account of religion, and chooses a solitary life, both of them shall receive the property which was given as a dowry, or as an antenuptial donation, and only that shall be obtained by way of profit from the one who embraced the solitary life, which he or she could have lawfully acquired under the agreement in case of death.

(1)We have determined that the following matters of which We were aware shall be corrected; that is, if any person of either sex still subject to paternal authority, or, after having been released from it, should choose to enter a monastery or become a

member of the clergy, and desire to pass the remainder of his or her life in a religious manner; it shall not be lawful for the parents of the party in question to prevent him or her in any way from doing so, or for this reason to exclude him or her from their inheritance or succession, under the pretext of their being ungrateful; but all persons, when they make their last will either in writing or in any other legal way, shall be required to leave them the fourth part of their estates, in compliance with Our laws. If, however, they should desire to leave them any more, We grant them permission to do so. But when their parents are not shown to have manifested their last wishes, either by will or by any other final disposition of their property, their heirs shall obtain the entire estate of their parents, to which they are entitled in case of intestacy, according to Our laws; and their adoption of a religious life shall present no impediment to this, whether they are called to the succession alone, or along with others.

(2)We wish those to enjoy the benefits of Our perpetual law who have continued to remain in a monastery, or in the priesthood; for if any of those with reference to whom We have established the present regulation, should choose a religious life, and should afterwards renounce it for a secular one, We order that all their property shall belong to the church or the monastery from which they have withdrawn.

(3)These matters having been disposed of in this way, We order that the law shall be repeated which provides that no Jew, Pagan, or heretic shall hold Christian slaves; and if any should be found to have done so, We direct that all such slaves shall become absolutely free, in accordance with the tenor of Our former laws. Moreover, We now further decree that, if anyone of the abovementioned Jews, Pagans or heretics should have slaves who have not yet been initiated into the most holy mysteries of the Catholic faith, and the aforesaid slaves desire to embrace the orthodox religion, they shall, by this law, become absolutely free, after having united with the Catholic Church; and that the judges of the provinces, the defenders of the Holy Church, as well as the most blessed bishops, shall prevent anything being received by their masters as the price of the said slaves. If, after this, their masters should be converted to the orthodox faith, they shall not be permitted to reduce those to slavery who preceded them in this respect, and anyone who usurps rights of this kind shall be subjected to the severest penalties. Therefore all judges and reverend archbishops, not only in the dioceses of Africa (in which We have ascertained that abuses of this kind are frequent), or in any other provinces, shall see that all these things which We have ordered for the sake of piety shall be rigidly and zealously observed.

Violators of this law shall not only be punished with a pecuniary fine, but also with the penalty of death.

Title 4. Concerning the Episcopal tribunal and the different charters which relate to pontifical supervision.

.1The Emperors Valentinian and Valens to Julianus, Count of the East.

Even when merchants belong to Our Palace, they must not appear to violate the laws of trade, and Christian bishops who prefer the true faith must provide for the assistance of the poor and of those who are reduced to necessity.

Given at Constantinople, on the fifteenth of the Kalends of March, during the Consulate of Valentinian and Valens.

.2The Same, to Claudius, Praetorian Prefect.

If a clerk should have recourse to an appeal for the purpose of causing fruitless delay, before final judgment has been rendered in a case, he shall be compelled to pay a fine of fifty pounds of silver, which the general law imposes upon appellants of this description. We do not wish this fine to be paid into Our Treasury, but faithfully to be expended for the benefit of the poor.

Given on the sixth of the Ides of July, under the Consulate of Our Emperor Valentinian, and Victor.

.3The Emperors Valentinian, Theodosius and Arcadius, to Neotherius, Praetorian Prefect.

Let no one hereafter expect other decrees from Our Majesty, but the judges must execute what We are in the habit of granting. Thus when the first day of Easter arrives, let no prison have an occupant, and let the chains of all be broken, but We except those persons by whom the common joy and rejoicing may be contaminated, and if such are released, We shall punish those who do so; for who will pardon a sacrilegious person upon a holy day? Who can remain ignorant of the crime of an adulterer, or of a person guilty of fornication or incest, when chastity is generally practiced? Who will not vehemently pursue the ravisher of a virgin during a time of general repose and common rejoicing? Let no one obtain release from his chains who, by an act of criminal atrocity, did not leave the dead in peace. Let the poisoner, the malefactor, the adulterer, and the counterfeiter be subjected to torture, and a homicide or parricide always expect the fate which he has caused; and let the traitor not hope that the offence which he has plotted against his master will be pardoned. We, therefore, limit the number of those who can profit by Our indulgence, so that they will not have remission of their penalties, except where they have committed an offence for the first time; nor does the grace of Our august liberality extend to those who, having received immunity for a former offence, do not think of reform, but rather of repeating what they have done.

Given, on the Kalends of May, during the Consulship of Arcadius and Bauto.

.4The Emperor...

We order that only three Praetors shall be elected each year in this City by the Senate, who shall hear and decide such cases and matters as belong to their jurisdiction.

.5The Emperors Theodosius, Arcadius, and Honorius to Rufinus, Praetorian Prefect.

Female comedians, and women who make a living by the exhibition of their bodies, shall not assume the habit of virgins dedicated to God.

.6The Emperors Arcadius and Honorius to Gennadius, Augustal Praetorian Prefect.

Only Christians can be appointed superintendents of revenue, and of the tillage of lands, and it is a part of your duty to see that this law is executed.

Given at Constantinople, on the Nones of February, during the Consulate of Arcadius, Consul for the fourth time, and Honorius, Consul for the third time.

.7The Same to Eutychianus.

No clerk, monk, or any of those called synodites shall, by the use of force or usurpation, be permitted to claim or hold any offenders condemned on account of the enormity of their crimes. Moreover, let no one hold or defend any persons who are being taken to the place of punishment, after having been sentenced; and he who has jurisdiction of the case, as well as other persons high in authority, are hereby notified that they will be liable to a fine of thirty pounds of gold, and the punishment of death, if such an unlawful act is not punished; but if the audacity of clerks or monks is so great that it is thought preferable to make war rather than to render judgment, let the guilty parties be brought before Us, in order that the most severe vengeance may be inflicted according to Our will. The bishops will be to blame (as in other cases), if they are aware that anything which We have forbidden by this law has been committed by monks in that part of the country in which they themselves govern the people, under the doctrines of the Christian religion, and do not punish it; and in criminal cases, through considerations of humanity, We do not deny such persons the opportunity of taking an appeal, if time permits.

Given on the sixth of the Kalends of August, during the Consulate of the Emperor Honorius, Consul for the fourth time, and Eutychianus.

.8The Same Emperors to Eutychianus, Praetorian Prefect.

If, by common consent, any persons should desire to institute proceedings before the bishop of the Sacred Law, they shall not be forbidden to do so; but such proceedings shall only be instituted in civil matters before an arbiter who voluntarily presides, and a decision of the bishop cannot and should not prejudice those who have been summoned to the trial, instead of having voluntarily appeared.

Given at Milan on the sixth of the Kalends of August, during the Consulate of the Emperor Honorius, Consul for the fourth time, and Eutychianus.

.9The Emperors Arcadius, Honorius, and Theodosius, to Theodore, Praetorian Prefect.

We order that the decision of a bishop shall be accepted by all those who have chosen to be heard by ecclesiastics, and that the same respect shall be paid to his judgment as should be shown to your tribunal, from which an appeal is not allowed. When the case has been decided, execution shall be ordered by the judges, in order that the inquiry by the bishop may not be without effect.

Given on the Ides of December, during the Consulate of Bassus and Philip.

.10The Emperors Honorius and Theodosius to Caecilianus, Praetorian Prefect.

Judges shall have prisoners brought before them from prison on Sunday, and they shall interrogate them, in order that humane treatment may not be denied them by corrupt jailers during their confinement. They must cause proper food to be furnished, if they do not have it, and shall assign them two or three pounds daily, or as much as those having charge of them consider necessary, which they may charge to the fund intended for the poor, and the prisoners ought also to be conducted to the baths under a trusty guard. If the judges and their officers should disobey this most salutary law, they shall be liable to the fine of twenty pounds of gold which has been prescribed for this offence; and a fine of three pounds of gold shall be imposed upon the municipality, if it should treat this regulation with contempt; nor shall the bishop, induced by the praiseworthy solicitude for the Christian religion, neglect to observe its warning and cause the judge to observe the law.

Given at Revenna, on the eighth of the Kalends of February, during the Consulate of Honorius, Consul for the eighth time, and Theodosius, Consul for the sixth time.

.11The Same Emperors to Caecilianus, Praetorian Prefect.

We decree that astrologers shall not only be banished from the City of Rome, but also from all other cities; unless, having burned all the books containing their errors under the eyes of the bishops, they are resolved to embrace the Christian religion, and never to return to their former errors. If, however, they should not do this, and should be found in any city, in opposition to Our Decree, or should teach the secrets of their false doctrines or profession, they shall be punished with deportation.

.12The Same to Theodore, Praetorian Prefect.

We desire Christians of neighboring places to exert themselves to prevent anyone from retaining, injuring or insulting Romans who have returned from captivity.

Given on the third of the Ides of December, during the Consulate of the Emperors Honorius, Consul for the eighth time, and Theodosius, Consul for the third time.

.13The Emperors Theodosius and Valentinian to Florentius, Praetorian Prefect.

If fathers and masters, acting as panders, should compel their daughters or female slaves to sin, the said daughters and female slaves, after having sought the aid of the bishop, shall have the right to be released from all necessity of suffering such misfortunes.

Given on the Kalends of May, during the Consulate of Felix and Taurus.

.14The Emperor Martian to Constantine, Praetorian Prefect.

We decree that anyone who desires to bring suit with reference to any church matters, which are subject to the jurisdiction of the pious Archbishop of this Fair City, against the Most Reverend Steward (whether the question relates to ecclesiastical affairs, or to such as are private and connected with the case of the party himself), or against any

other clerk attached to the said churches, he must state his case before the above-mentioned Most Blessed Archbishop, who, in hearing it, shall bring to bear both the faith and sincerity which should characterize a priest and a judge, and his decision shall be rendered with the acquiescence of both the parties; but no one who institutes proceedings against the holy churches, or the aforesaid ecclesiastics, shall be brought against his will before the Most Pious Bishop.

Given on the eighth of April, during the Consulate of Vararus and John.

.15The Emperors Leo and Anthemius to Nicostratus, Praetorian Prefect.

Let no one be admitted to the body of advocates before your tribunal, or before that of any province, or before any judge, unless he has been initiated into the sacred mysteries of the Catholic religion. If, however, he has either done or attempted anything, in any way contrary to law with evil intent, or otherwise, it shall be your duty to compel him to pay a fine of a hundred pounds of gold; and likewise, if anyone should venture surreptitiously to practice the profession of advocate, contrary to the Decree promulgated by Us, and should perform duties in court which are forbidden him; he shall be removed from the profession of advocate, and shall suffer the loss of his property, and be condemned to perpetual exile; and all Governors of provinces are hereby notified that anyone who, during his administration, permits anything of this kind, shall suffer the confiscation of half his property, and the penalty of exile for the term of five years.

.16The Same Emperors to Erythrius, Praetorian Prefect.

When a marriage is prohibited by law, and, after the betrothal present has been given the woman refuses to marry the man on account of a difference in religion, and it is proved that the woman or her parents knew this before the gift was bestowed, they must only blame themselves. If, however, they were ignorant of it and accepted the marriage gift, and afterwards repented of having done so, and the gift is returned, they will be released from any other penalty; and We order that this rule shall be observed with reference to men who are betrothed, provided the gift has been made.

Given on the Kalends of July, under the Consulate of Martian and Zeno.

.17The Emperor Anastasius to Eustachius, Praetorian Prefect.

We order that only those shall be selected for the office of defender who have been initiated into the mysteries of the orthodox religion, and have established this in the first place by the testimony of their acts, and by proclaiming their belief with the sanction of an oath, in the presence of a Most Reverend Bishop of the Catholic Church. We order that they shall be appointed in this manner, and that they shall be confirmed by a decree of the Most Reverend Bishop, clerks, nobles, proprietors, and members of the curiae.

Given on the thirteenth of the Kalends of May, during the Consulate of Sabinian and Theodore.

.18The Emperor Justinian to Menna, Praetorian Prefect.

Where anyone who is stated in a written instrument to have paid money, or to have delivered other property, is present, and is charged with some administration in the provinces, as it will appear to be difficult to make the allegation that he has not paid the money, We grant permission to him who desires to avail himself of the abovementioned exception to appear before other judges, and, by means of them, to show to the other party why he wishes to make use of an exception of this kind, based upon the complaint that the money was not paid by him; but if there is no other civil or military official in the province, or, for some reason, it is difficult for the adversary who opposes the above-mentioned complaint, to appear before him, and do the things which have been mentioned, We grant permission for him to file his exception against his creditor before the Most Reverend Bishop, and, in this way, to interrupt the prescription established by law.

(1)It is also settled that this proceeding will be applicable in the case of an exception, on the ground that a dowry has not been paid.

Given at Constantinople on the Kalends of July, during the Consulate of Our Lord Justinian, Consul for the second time, 528.

.19The Same, to Demosthenes, Praetorian Prefect.

We desire that no one shall be permitted to claim either by absolute ownership as a serf, or as one belonging to the condition of a tenant, any child that has been exposed as a foundling, whether it was born of free parents, or to a freedwoman, or is branded with the reproach of a servile condition. We do not grant permission to those who have brought up children of this kind to appropriate them as their own property under any pretext; but children who have been reared by such persons, or nourished by them, or who have grown up under their care shall, without distinction, be considered as free and freeborn persons, and can acquire property for themselves, and transmit to their posterity, or to foreign heirs everything which they have, in any manner that they may desire. Not only the Governors of provinces, but also the Most Reverend Bishops, are required to observe these regulations.

Given at Chalcedon, on the eighth of the Kalends of July, during the Consulate of Lampadius and Orestes, 530.

.20The Same to Julianus, Praetorian Prefect.

It has seemed necessary to Us to determine in what way rules should be established concerning the creation of curators for insane persons of both sexes. If, indeed, a father should appoint a curator for an insane child of either sex, by his last will, after having appointed or disinherited his heirs; it will not be necessary for a surety to be furnished, as the testimony of the father is sufficient security. He who has been appointed in this way shall obtain the curatorship, provided that, having complied with the other formalities in the provinces, he is sworn upon the Holy Scriptures before the Governor, and in the presence of the Most Reverend Bishop and three ecclesiastics of the highest rank, that he will administer everything justly and for the benefit of the said insane person, and that he will not omit anything which he may think may be advantageous to him, nor allow anything to be done which he may

believe will not be for his benefit. After an inventory has been publicly drawn up with all its details, he can undertake the trust, and transact its business as seems best to him, his own property being liable for his maladministration, just as in the case of the guardian or curator of a minor. When, however, the father did not make a will, the law will call an agnate as curator, or if there is none, or at least none that is suitable, it will be necessary for a curator to be appointed by the court; and, in this instance, this shall be done in the provinces before the Governor and the most Reverend Bishop of the City, and the three principal ecclesiastics of the diocese; so that, if the curator has sufficient property to be responsible for his administration, no other security shall be given. But where he is found not to have sufficient property, security shall be furnished by him to the extent of his ability, and his appointment, under all circumstances, shall be solemnized by his oath upon the Holy Scriptures; the curator himself, no matter what his wealth or dignity may be, having taken the aforesaid oath to manage the estate in a suitable way, and having signed the inventory publicly, and furnished security for his acts as curator, in accordance with all the legal formalities, so that the property of the insane person may be administered as advantageously as possible.

Given at Constantinople, on the Kalends of September, during the Consulate of Lampadius and Orestes, 530.

.21The Same to Julianus, Praetorian Prefect.

The children of a demented, as well as those of an insane person, of both sexes, can contract lawful marriage, and their dowries as well as the betrothal gifts must be furnished by the curator of their father, and the amount of the same must be fixed in this Imperial City, by the most excellent Urban Prefect, and in the provinces, by the illustrious Governor, or the bishop of the diocese. This must be done according to the means of the person, in the presence of the demented or insane individual, and of those who are of the highest rank in the family of all the parties concerned; so that, on this account, no damage may result to the property of the said insane or demented person, either in this Imperial City, or in the provinces; and all this shall be done gratuitously, so that a misfortune of this kind may not be further aggravated by expense.

.22The Same to John, Praetorian Prefect.

We decree that where anyone holds the property of another, or any is pledged to a creditor who is absent, and the owner of the property, or the creditor desires to notify him of his intention to seize it; and he is not able to do so during the absence of his adversary, who has the property, or who is a minor or insane, and has neither a guardian nor a curator, or occupies some high office, and cannot take it by his own authority, permission shall be granted him to appear before the Governor of the province, and file his petition and complaint within the prescribed time, so as to interrupt the prescription. Where, however, he is unable to appear before the Governor, he can go before the bishop of the diocese, and proceed to acquaint him with his wishes, in writing.

Given at Constantinople, during the Kalends of October, after the Consulate of Lampadius and Orestes, 531.

Title 5. Concerning heretics, Manicheans, and Samaritans.

.1The Emperors Constantine, Constantius, and Constans, to Gracilianus, Prefect of the City.

Privileges granted in consideration of religion should only benefit those who observe the rules of the Catholic Faith. We do not wish heretics to absolutely be excluded from these privileges, but that they should merely be restrained, and compelled to accept employment for which the said privileges afford exemption.

.2The Emperors Gratian, Valentinian, and Theodosius to Hesperidus, Praetorian Prefect.

Let all heresies forbidden by Divine Law and the Imperial Constitutions be forever suppressed. Let no one hereafter attempt either to teach or to learn any precepts which he has ascertained to be profane, and let no bishops venture to teach the faith which they do not profess, and appoint ministers which are not such; and audacity of this description shall not be neglected and permitted to increase through the connivance of magistrates, and of all those who are directed to have charge of matters of this kind.

(1)Under the name of "heretics" are included those who ought to be convicted of having violated laws passed against them; or who, on frivolous grounds, have been found to have deviated from the judgment and principles of the Catholic religion.

Given at Milan, on the third of the Nones of August, during the Consulate of Ausonius and Olybrius, 379.

.3The Emperors Arcadius and Honorius to Clearchus, Prefect of the City.

Let all heretics know positively that their places of assembly shall be taken from them, whether these are designated under the name of churches, or are called deaconates, or deaneries, or whether meetings of this kind are held in private houses; for all such private places or buildings shall be claimed by the Catholic Church.

(1)All persons are accordingly forbidden to assemble by day or night, in profane assemblies, for the purpose of conducting alleged religious services; and where anything of this kind is permitted to be done either in a public or a private house, the official who allows it, if he is the Prefect of the City, shall be fined a hundred pounds of gold, or if he is the Governor, shall be fined fifty pounds of gold.

Given on the fifth of the Nones of March, during the Consulate of Arcadius, Consul for the fourth time, and Honorius, Consul for the third time, 396.

.4The Same Emperors and Theodosius to Senator, Prefect of the City.

We pursue, with exemplary severity, Manicheans of both sexes, and Donatists. Therefore, they have nothing in common with the human race, so far as either customs or laws are concerned.

(1)We desire, in the first place, that their offence should be classed as a public crime, because whatever is committed against the divine religion is productive of injury to all persons.

(2)We punish them by the confiscation of all their property, and We wish them to be excluded from obtaining any gift or inheritance of any description whatsoever.

(3)In addition to this, We deprive anyone found guilty of these heresies of the power of giving, purchasing, selling, and finally, of making any contracts.

(4)An investigation of this kind shall also extend beyond death, for, as it is permitted to denounce the memory of the deceased in case of treason, it is not unreasonable that a heretic should undergo the same sentence.

(5)Therefore, the last will of a person convicted of having been a Manichean, whether it is manifested by a testament, a codicil, a letter, or in any other way whatsoever, shall be void.

(6)We do not permit their children to succeed them as heirs, or to enter upon their estates, unless they abandon the perverseness of their fathers, for We pardon those who repent.

(7)Our authority is also directed against those who, with solicitude worthy of condemnation, harbor them in their houses.

(8)We desire, moreover, that slaves should be free who, escaping from a sacrilegious master, pass with more faithful service into the Catholic church.

Given at Rome, on the eighth of the Kalends of March, during the Consulate of Honorius, Consul for the seventh time, and Theodosius, Consul for the second time, 407.

.5The Emperors Theodosius and Valentinian to Caesar Florentius, Praetorian Prefect.

Arians, Macedonians, Pneumatomachians, Appollinarians, Novatians or Sabatians, Eunomians, Tetradites or Tessarecaidecadites, Valentinians, Paulians, Papianists, Montanints or Priscillians, Phrygians, Pepuzites, Marcionists, Borborites, Messalians, Euchites, or Enthusiasts, Donatists, Audians, Hydroparastetes, Tascodrogites, Batracites, Hermogenians, Photinians, Paulinists, Marcellians, Ophites, Encratitians, Carpocratitans, Saccophores, and Manicheans, who are to be classed as guilty of the worst of all heretical crimes, shall never have the power to assemble or reside in the Roman Empire. Moreover, Manicheans must be expelled from towns, and delivered up to extreme punishment, for no place should be left them in which they may cause any injury even to the elements. Moreover, all laws which have formerly, at different times, been enacted against them and others who are opposed to our religion, shall always be observed in all their force, whether they have reference to donations made

in assemblies of heretics, which they audaciously attempt to designate as churches, or to property left under any circumstances by a last will, or to private buildings in which they meet, either with the permission or connivance of the owner, and which should be claimed by us for the Holy Catholic Church; or whether they refer to an agent who has acted without the knowledge of his principal, who, if he is free born, shall be subject to a fine of ten pounds of gold, and if he is of a servile condition, shall be sentenced to the mines, after having been scourged; so that they can not assemble in any public place, or build their so-called churches, and can plan nothing for the evasion of the laws; and no assistance, either civil or military, shall be furnished them by either curiae, defenders, or judges, under the penalty of twenty pounds of gold. All laws which have been promulgated with reference to the army, to various penalties, and to different kinds of heretics, shall remain in full force, so that no special privilege shall be valid as against said laws.

Given at Constantinople, on the third of the Kalends of June, under the Consulate of Felix and Taurus, 428.

.6The Same Emperors to Leontius, Prefect of the City.

Nestor, the founder of a monstrous superstition, having been condemned, remember that it is proper for his followers to be branded with his name, and not abuse the appellation of Christians; but just as Arians are so called from Arius, on account of similar impiety, by the law of Constantine of Divine memory, and Porphyrians, from Porphyry, so everywhere the members of the infamous sect of Nestor shall be styled Nestorians, as they seem legitimately to deserve this title, on account of having imitated his wickedness in deserting God.

(1)Let no one venture to either have in his possession, read, or copy, the impious books of the wicked and sacrilegious Nestor, written against the venerated sect of the orthodox, and the decrees of the Holy Convocation of bishops at Ephesus, and which We order shall be diligently sought out and publicly burned; so that no one may mention the above-stated name in any religious discussion, and these sectaries have any opportunity of holding any assembly in their city, country, or suburban houses, or anywhere else, either secretly or openly. We have determined to deprive all such persons of the right to hold assemblies, and they all are hereby notified that any violator of this law will be punished with the confiscation of his property.

Given on the third of the Kalends of August, during the Consulate of Theodosius, Consul for the fifteenth time, and Valentinian, Consul for the fourth time, 435.

.7The Same Emperors to Florentius, Praetorian Prefect.

We think that the curiae of all cities, as well as persons in the army, and those, who are obliged to perform various duties, either official or personal, should fulfill them (no matter to what sect they may belong), lest We should seem to have afforded the benefit of immunity to men who should be execrated on account of their infamous belief, and whom We wish to be condemned by the authority of this Constitution.

Given on the day before the Kalends of February, during the Consulate of Theodosius, Consul for the sixteenth time, and Faustus, 409.

.8The Emperors Valentinian and Martian to Palladius, Praetorian Prefect.

All those who, in this Imperial City, or in that of Alexandria, or in any of the dioceses of Egypt, or in any other provinces, follow the profane perversity of Eutyches, and hence do not acknowledge the Catholic faith, as established by the three hundred and eight Holy Fathers of Nicea, and the one hundred and fifty other reverend bishops who subsequently assembled in the fair city of Constantinople, and which Athanasius, Theophilus, and Cyril of holy memory, Bishops of the City of Alexandria, adopted, and whom also the Synod of Epheses (over which Cyril, of blessed memory presided, and in which the error of Nestor was rejected), unanimously followed, which recently the venerated Synod of Chalcedon approved, and which agrees in every respect with the decisions of former ecclesiastical councils, neither taking anything from, or adding anything to the Holy Symbol, but condemning the fatal dogmas of Eutyches, knowing that they are Apollinarian heretics, for Eutyches and Dioscorus, with sacrilegious intent, sanctioned the most infamous sect of Appollinaris.

(1)Therefore, these men who adopt the perverse doctrines of Apollinaris or Eutyches are hereby informed that they shall be punished with the penalties which have been decreed by the constitutions of preceding Emperors against the Apollinarians; or by the decrees which We have subsequently published against the Eutychians; or which have been promulgated against them by this most august law.

(2)Therefore, We forbid the Apollinarians, that is to say, the Eutychians, who only differ from the former in name, and are united with them in the wickedness of their heresy, their appellation being different, but their sacrilege the same, and who do not believe as the aforesaid venerable fathers believed, nor share the orthodox faith with Procerius, the most reverend Bishop of the City of Alexandria, to create and have bishops, priests, or any other members of the clergy, either in this Fair City, in the different provinces, in the City of Alexandria, or in the dioceses of Egypt. Let the Eutychians and Apollinarians know that if any of them dare to apply the name of bishop, priest, or clerk to anyone, they, as well as those who have suffered such titles to be given them, and who have allowed themselves to retain a sacerdotal designation, shall suffer the penalty of exile and loss of their property.

(3)Moreover, no Apollinarians or Eutychians shall build churches or monasteries for their use, or hold any conventicles by day or by night, either in the house or on the premises of anyone, or in a monastery, or in any other place whatsoever, for the purpose of practicing the rites of their most dangerous sect. If they should do any of these things, and it should be established that they were done with the consent of the owner of the property, after the matter has been proved in court, We order the house or the property of the person where the meeting was held, or the monastery, to be adjudged to the orthodox church having jurisdiction over the territory. If, however, the prohibited conventicles were held without the knowledge of the owner, but with the privity of the person who collected rent for the house, or of his agent, or of the lessee of the land, the lessee, or the attorney, or the agent, or anyone else who received the sectaries in the house or on the land, or in the monastery, and permitted them to hold their unlawful conventicles, if they are of low and abject condition, shall be punished publicly with stripes, both as a penalty and as an example to others; but if

they are respectable, they shall be compelled to pay a fine of ten pounds of gold to Our Treasury.

(4)We also order that no Apollinarians or Eutychians shall aspire to any military rank. If they are young, they shall be deprived of the society of honorable men, and of access to the palace, and they shall not reside in any town, city, village, or neighborhood in which they were born. If, however, any of them were born in this Fair City, they shall be expelled from its most sacred precincts, as well as from all the metropolitan cities of the province.

(5)Moreover, opportunity shall not be afforded to any Eutychians or Apollinarians to hold assemblies either publicly or privately, or to form clubs, and discuss their heretical errors, or to assert the false claims of their wicked dogmas. Nor shall it be lawful for any of them either to say or write, publish or distribute anything against the Holy Synod of Chalcedon, or to repeat what has been said or written by others on this subject. No person of this kind shall dare to have the books, or preserve the sacrilegious memorials of writers, and if they are convicted of such crimes, they shall be condemned to perpetual deportation. We order that those who, desiring to be informed of these unfortunate heresies, discuss them, shall be sentenced to pay a fine of ten pounds of gold to Our Treasury, and those who have attempted to teach them these unlawful doctrines shall be condemned to death. All treatises of this kind, and all books which contain the dangerous dogmas of Eutyches and Apollinaris, shall be committed to the flames, so that every trace of their wicked perversity may be destroyed by fire. It is only just that a penalty of equal severity should be imposed for the commission of this monstrous sacrilege, therefore let the Governors of provinces and their officers, as well as the defenders of cities, know that, if they either fail to obey these rules which We, by the most religious sanction of this law, have decreed shall be observed; or if they permit them to be violated by a display of rashness, they will be compelled to pay a fine of ten pounds of gold to Our Treasury, and, in addition to this, will incur Our resentment.

Given at Constantinople, on the Ides of August, during the Consulship of Constantinus and Rufus, 457.

.9The Emperor Anastasius to Erythrius, Praetorian Prefect.

When anyone belonging to the orthodox religion, by means of either a true or a fictitious sale, or by any other right or title whatsoever, desires to transfer any lands, possessions, or other immovable property, on which have been built churches or chapters of the orthodox faith, to some person belonging to a heretical sect, or who entertains opinions contrary to the orthodox faith, We decree that any disposition of property of this kind between living persons, or which has been made in secret, shall not be valid, even if it was conveyed by a vendor of the orthodox faith, or by any other person under a fictitious title, or under any condition whatsoever, but that all instruments of this kind shall be void, just as if they had never been drawn up. We also decree that all such lands and possessions which have been transferred or conveyed to heretics, in any way whatsoever, shall be claimed by our Treasury; and if the said lands should remain in the hands of orthodox owners or possessors, or should be acquired by Our Treasury, it will be necessary for the said churches and chapels to be diligently and carefully restored. The wisdom of Our Majesty intends to provide

that the temples of Almighty God in which the institutions of our religion are destined to endure, having been restored shall be preserved with assiduous care through all coming centuries; for it cannot be doubted that if lands of this kind, on which churches and chapels of the true faith have been built, should fall into the hands of heretics, their integrity will remain unimpaired, but they will be deserted and forsaken, deprived of all worship, bereft of all their accustomed mysteries, and stripped of all their splendor. No assemblies of the people will take place in them, and no rites be celebrated there by the clergy; and, for this reason, the said churches will undoubtedly be destroyed, fall into ruin, and be levelled with the ground; for heretics will not, at any time, think of the restoration of structures which they do not wish to remain in existence.

Given on the fifth of the Ides of August, during the Consulate of Bo�tius and Euthericus, 511.

.10The Same to Julianus, Praetorian Prefect.

We have ascertained that there are many orthodox children neither whose fathers nor mothers belong to the true faith; and therefore, We order that in cases where but one of the parents has embraced the orthodox religion, as well as in those where both parents are members of another sect, only such children as are included under the venerated title of orthodox shall be called to their succession, either under a will or ab intestato, and that they alone shall be entitled to receive donations and other liberalities. The other children of those persons who have followed, not the love of Almighty God, but the impious belief of their fathers or mothers, shall be excluded from all benefits. Where, however, no orthodox children are living, the property, or the succession, shall go to their agnates or cognates, provided they are orthodox. But if no such agnate or cognate can be found, then the estate shall be claimed by Our Treasury.

(1)In order that We may not seem to have failed to make provision for children at the death of their parents (a fact which has been recognized by Us), We require such parents to support their orthodox children, in accordance with their means, and to furnish them everything which is necessary for their preservation, or their daily life; and also to give dowries for their daughters and granddaughters, and make antenuptial donations for their sons and grandsons, and in every instance, gifts of this kind should be in proportion to the value of their estates, in order to prevent children from being defrauded by the dispositions of their father or mother, on account of their choice of the Divine love. All Our Constitutions which have established penalties against Pagans, Manicheans, Borborites, Samaritans, Montanists, Tascodrogites, Ophytes, and other heretics, are confirmed by this Our law, and shall remain forever valid.

Given at Constantinople, on the tenth of the Kalends of December, during the Consulate of Lampadius and Orestes, 500.

.11The Same to John, Praetorian Prefect.

As many judges requiring Our advice have consulted Us as to the disposal of litigation, in order that they may be advised what to decide with reference to heretic witnesses, and whether their testimony should be accepted or rejected, We order that

no testimony shall be given against orthodox litigants by a heretic, or by those who adhere to the Jewish superstition, whether one, or both parties to the suit are orthodox. We grant permission to heretics or Jews, when they have litigation with one another, to introduce witnesses qualified to testify, with the exception, however, of those who are controlled by the Manichean insanity, which it is evident is also shared with the Borborites and those who believe in the Pagan superstition; and the Samaritans are also excepted, as well as those who are not unlike them, together with . the Montanists, the Tascodrogites, and the Ophytes, to whom all legal actions are forbidden on account of the similarity of their offences. We therefore order that the right to be a witness, along with all other lawful acts, shall be forbidden to the Manicheans, the Borborites, and the Pagans, as well as to the Samaritans, the Montanists, the Tascodrogites, and the Ophytes. We desire that the privileges of giving testimony in court against orthodox persons shall only be forbidden to other heretics, in accordance with what has been already decided. We admit their evidence, however, with reference to wills and whatever relates to the final disposition of property or to contracts, without any distinction, on the ground of public utility and necessity, and in order that difficulty of proof may not be increased.

Given at Constantinople, on the third of the Kalends of August, after the Consulate of Lampadius and Orestes, 532.

.12The Same to John, Praetorian Prefect.

We order that Our Divine Decree by which We have ordered that no one who accepts the error of heretics can receive an estate, a legacy, or a trust, shall also apply to the last wills of soldiers, whether they are made under the Common, or military law.

Given, on the Kalends of September, after the Consulate of Lampadius and Orestes, during the second year of the reign of Justinian, 535.

Title 6. To avoid the repetition of baptism.

.1The Emperors Valentinian, Valens, and Gratian to Florian, Lieutenant of Asia.

We think that a bishop who, by unlawful usurpation, has repeated the sacred rite of baptism, is unworthy of the priesthood; for We condemn the error of those who, trampling under foot the precepts of the Apostles, do not purify those who have obtained the sacraments of the Christian denomination by a second baptism, but defile and pollute them under the pretext of cleansing them.

Given at Constantinople, on the sixteenth of the Kalends of November, during the Consulate of Gratian, Consul for the fourth time, and Merobaudus, 377.

.2The Emperors Honorius and Theodosius to Anthemius, Praetorian Prefect.

Where anyone belonging to the ministry of the Catholic sect, is convicted of having baptized the same person twice, he shall, along with him who induced him to commit the offence (provided he is of such an age as to be responsible), be condemned to

death.

Given on the twelfth of the Kalends of April, during the Consulate of Lucius, 413.

.3The Emperors Theodosius and Valentinian to Florentius, Praetorian Prefect.

Permission should not be given to apostates to baptize, for the second time, freeborn persons or their own slaves who have been initiated into the mysteries of the orthodox faith, or to prohibit those whom they have purchased, or have control of in any way, but who have not yet embraced their own superstition, from accepting the doctrines of the Catholic Church. Anyone who does this, or any freeborn person who permits it to be done to himself, or does not give information of it after it has been done, shall be sentenced to exile, and to pay a fine of ten pounds of gold, and shall be denied the right of either making a will or a donation. We decree that all these rules shall be observed, so that no judge shall be permitted to punish a crime, when brought to his attention, with a smaller penalty than that prescribed by law, or not to punish it at all, unless he himself desires to undergo the same penalty from which, by his dissimulation, he has released others.

Given at Constantinople, on the third of the Kalends of June, during the Consulship of Felix and Taurus, 428.

Title 7. Concerning apostates.

.1The Emperor Constantius and Julian-Caesar to Thalassius, Praetorian Prefect.

If anyone, after renouncing the venerated Christian faith, should become a Jew, and join their sacrilegious assemblies, We order that, after the accusation has been proved, his property shall be confiscated to the Treasury.

Given at Milan, on the fifth of the Nones of July, during the Consulate of Constantius, Consul for the ninth time, and Julian-Caesar, Consul for the second time, 357.

.2The Emperors Gratian, Valentinian, and Theodosius to Hypatius, Praetorian Prefect.

Where anyone accuses a deceased person of having violated and abandoned the Christian religion, and denounces him for having given his adherence to the sacrileges of the temples, or the rites of the Jews, and maintains that, in consequence, he has no right to make a will; he must institute proceedings within five years, as has been decided in cases brought to declare a will inofficious.

Given on the fifteenth of the Kalends of January, during the Consulate of the Emperor Gratian, Consul for the fourth time, and Merobaudus, 383.

.3The Emperors Theodosius, Valentinian, and Arcadius to Flavian, Praetorian Prefect.

Those who have betrayed the Holy Faith, and have profaned the sacred rite of baptism by heretical superstition, shall be separated from association with all other persons, and shall not have the right to testify against anyone, or to make a will (as We have already decreed), nor shall they succeed to estates or be appointed heirs. We would have also ordered them to be cast out and sent away to a distance, if it had not seemed to be a great punishment for them to live among men, and be deprived of intercourse with them. But they shall never be restored to their former condition, nor shall their crime be effaced by repentance, or their guilt removed by the shade of a skillful defence or excuse; as those who pollute the faith which they had consecrated to God, and, betraying the Divine mysteries, have adopted profane ones, cannot defend what is false and artificial. Assistance is given to those who have fallen and wandered, but no aid will be accorded to those who are lost; that is to say, those who profane the sacred rite of baptism, for they will find no remedy in repentance which usually is beneficial in other crimes.

Given on the fifth of the Ides of May, during the Consulate of Titianus and Symmachus, 391.

.4The Emperors Theodosius and Valentinian to Bassus, Praetorian Prefect.

Let the accusation of apostates continue without interruption, and let no protection of crime of this description be afforded by lapse of time; for although previous laws may be sufficient for the punishment of such offences, still, We repeat that after such persons have deviated from the Faith, they shall not have the power to make a will, or otherwise dispose of their property, and shall not be permitted to defraud the law by a fictitious sale; and rights of action with all their property shall pass ab intestato, to their next of kin, who have embraced Christianity. We decree that the right of action against sacrilegious persons of this kind shall be perpetual, to such an extent that We do not deny their heirs permission to succeed to them on the ground of intestacy, even after the death of the guilty party; nor do we permit any opposition to be offered, even when no evidence of their profane belief was produced during their lifetime. But that the accusation of this crime may not be too readily brought in case of uncertainty; We, by the present law, declare those to be guilty who, invested with the name of Christian, either offer sacrilegious sacrifices, or direct this to be done, and the perfidy of such persons can be proved after their death. They shall also be punished by having their donations or their testamentary dispositions declared void, and those heirs who are entitled to the legitimate succession shall obtain the estates of persons of this description.

Given at Ravenna, on the seventh of the Ides of April, during the Consulate of Theodosius, Consul for the fourteenth time, and Valentinian, 426.

.5The Same Emperors to Florentius, Praetorian Prefect.

We direct that he who has induced a slave or a freeborn person, against his will or by means of threats, to renounce the Christian religion for any infamous sect or rite, shall be punished with the loss of his property and death.

Given on the day before the Kalends of February, during the Consulate of Theodosius, Consul for the fifteenth time, and Valentinian, Consul for the fourth time, 435.

.6The Emperors Valentinian and Martian to Palladius, Praetorian Prefect.

We order that those who are members of the clergy of Catholic churches, or are monks attached to the orthodox faith, and, having abandoned the worship of the true religion, follow the abominable dogmas and the heresy of Apollinaris or Eutyches, shall be liable to all the penalties which have been prescribed by previous laws against heretics, and that they shall also be banished from the soil of the Roman Empire, as has been provided by preceding laws with reference to Manicheans.

Given on the Kalends of August, during the Consulate of Valentinian, Consul for the seventh time, and Arian, 450.

Title 8. No one shall be permitted to carve or paint the image of our saviour Jesus Christ upon earth, stone or marble.

.1The Emperors Theodosius and Valentinian to Eudoxius, Praetorian Prefect.

As it is Our diligent care to guard in every way the religion of the Celestial Divinity, We specially command that no one shall be permitted to trace, carve, or paint the image of Christ the Saviour either upon the earth, upon stone, or upon marble placed in the earth, but it shall be erased wherever found; and anyone who attempts to violate Our laws in this respect shall be subject to a heavy penalty.

Given on the twelfth of the Kalends of June, during the Consulate of Hierius and Ardaburius, 427.

Title 9. Concerning Jews and the worshippers of the heavens.

.1The Emperor Antoninus to Claudius Triphoninus.

What Cornelia Salvia bequeathed to all the Jews of the City of Antioch cannot be recovered.

Given on the day before the Kalends of July, during the Consulate of Antoninus, Consul for the fourth time, and Balbinus, 214.

.2The Emperor Constantine to Evagrius, Praetorian Prefect.

We desire all Jews and worshippers of the heavens, and their heads and patriarchs, to be notified that, if anyone, after the promulgation of this law, should dare to attack a person who has abandoned his odius sect and betake himself to the worship of God, with stones or with any other manifestation of rage (which We have ascertained has

been done), he shall at once be given to the flames, and burned with all his accomplices.

Given on the fifteenth of the Kalends of November, during the Consulate of the Emperor Constantine, Consul for the eighth time, and Constantine-Caesar, Consul for the sixth time, 316.

.3The Emperors Valentinian and Valens to Remigius, Master of the Offices.

It is proper for you to order that soldiers who are lodged in the synagogue of the Jews, as in the house of a private person, shall leave it, for it is not reasonable that they should be quartered in religious places.

Given on the day before the Nones of March, during the Consulate of the Emperors Valentinian and Valens, 365.

.4The Emperors Gratian, Valentinian, and Theodosius to Hypatius, Praetorian Prefect.

Let the order, on account of which persons attached to the Jewish faith were gratified, and by which immunity was granted them from curial charges, be rescinded.

Given at Milan, on the eighteenth of the Kalends of May, during the Consulate of Merobaudus, Consul for the second time, and Saturninus, 383.

.5The Emperors Valentinian, Theodosius, and Arcadius to Cynegius, Praetorian Prefect.

No Jew shall marry a Christian woman, nor shall any Christian man marry a Jewess; for if anyone should be guilty of an act of this kind, he will be liable for having committed the crime of adultery, and permission is hereby granted to all persons to accuse him.

Given at Thessalonica, on the day before the Ides of March, during the Consulate of the Emperor Theodosius, Consul for the second time, and Cynegius, 388.

.6The Emperors Theodosius, Arcadius, and Honorius to Infantius, Count of the East.

No Jew shall retain the customs of his race relating to marriage; nor shall he marry in accordance with his religion; nor shall he contract several marriages at the same time.

Given on the third of the Kalends of January, during the Consulate of the Emperor Theodosius, Consul for the third time, and Habundantius, 393.

.7The Emperors Arcadius and Honorius to Eutychianus.

Jews who live under the common Roman law shall appear in court according to the usual custom, not only in those cases which relate to their own superstition, but also in such as have reference to the bar, the laws, and the rights of the people, and they shall bring and defend all actions in accordance with the Roman laws. If, however,

any of them should, by common consent, prefer to have a case heard by Jews as arbiters, provided the action is a civil one, they are not forbidden by the public law to avail themselves of their award. The judges shall cause their decisions to be executed, just as if they had been rendered by arbiters having jurisdiction.

Given on the sixth of the Nones of February, during the Consulate of the Emperor Honorius, Consul for the fourth time, and Eutychianus, 298.

.8The Same Emperors to the Jews.

No person who does not acknowledge the religion of the Jews shall establish a price at which they shall sell their merchandise, for it is but just that this should be left to each one of them; therefore the Governors of provinces shall not permit any of you to fix or regulate the price at which your goods shall be sold. If anyone, except your chiefs, should venture to take upon himself to do this, let them hasten to punish him as one desirous of appropriating the property of others.

Given at Constantinople, on the third of the Kalends of March, during the Consulate of the Emperors Arcadius, Consul for the fourth time, and Honorius, Consul for the third time, 396.

.9The Same Emperors and the Emperor Theodosius, to Eutychianus, Praetorian Prefect.

Any Jews who are proved to be subject to a curia can be delivered up to the latter.

Given on the third of the Kalends of January, during the Consulate of the Emperor Theodosius and Rumoridius, 403.

.10The Emperors Honorius and Theodosius to Anthemius, Praetorian Prefect.

The Governors of provinces shall prohibit Jews from burning or exhibiting the representation of the Holy Cross, with the sacrilegious intention of bringing it into contempt, on the festival day when they celebrate the punishment of Haman; nor shall they place the emblem of our faith upon their own houses, but they can retain their rites without manifesting any scorn for the Christian religion; and unless they abstain from what was unlawful, they shall undoubtedly lose the privileges which they have hitherto enjoyed.

Given at Constantinople, on the fourth of the Kalends of June, during the Consulate of Bassus and Philip, 408.

.11The Same to Jovius, Praetorian Prefect.

The unfamiliar name of "adorer of the heavens" denotes a new kind of superstition, and such persons are hereby warned that they will be liable to the laws under which We direct heretics to be punished, unless they are converted to the worship of God and the Christian faith, and that their buildings (in which they hold their assemblies for instruction in I do not know what new dogmas), shall be claimed by the churches,

for it is certain that whatever differs from the Christian religion is opposed to the Christian law.

Given at Ravenna, on the Kalends of April, during the Consulate of the Emperors Honorius, Consul for the eighth time, and Theodosius, Consul for the third time, 409.

.12The Same Emperors to Jovius, Praetorian Prefect.

We order that, upon the Sabbath day, and at other times when the Jews observe the ceremonies of their worship, no one shall either do anything to them, or, under any circumstances, compel them to appear in court; and they themselves shall not be given permission to sue orthodox Christians upon those days, so that Christians may not suffer any inconvenience from being summoned by the officials upon the days aforesaid; for it is evident that the remaining days will be sufficient for the purposes of the Treasury, and the suits of private individuals.

Given at Ravenna, on the eighth of the Kalends of August, during the Consulate of the Emperors Honorius, Consul for the eighth time, and Theodosius, Consul for the third time, 409.

.13The Same Emperors to Philip, Praetorian Prefect for Illyria.

No Jew who is innocent shall be oppressed, nor shall any person of any creed cause him to be exposed to insult; nor shall their synagogues or habitations be burned; nor shall they be maliciously injured without reason; for when any one of them is implicated in crime, the authority of the judges and the protection afforded by the public law has been established to preclude anyone from taking vengeance for himself. But, as We desire that provision be made for the personal safety of the Jews, so We think that notice ought to be given to prevent them from becoming arrogant, and, elated by their security, rashly commit some act against the Christian religion, by way of revenge.

Given at Constantinople, on the eighth of the Ides of August, during the Consulate of the Emperors Honorius, Consul for the ninth time, and Theodosius, Consul for the fifth time, 412.

.14The Same Emperors to Aurelian, Praetorian Prefect.

When any dispute arises between Christians and Jews, it shall not be decided by the chiefs of the Jews, but by the ordinary judges.

Given on the thirteenth of the Kalends of November, during the Consulate of the Emperors Honorius, Consul for the twelfth time, and Theodosius, Consul for the eighth time, 418.

.15The Same Emperors to Asclepiodotus, Praetorian Prefect.

Jews who are proved to have circumcised any man belonging to our religion, or to have directed this to be done, shall be condemned to the confiscation of their property, and to perpetual exile.

Given on the day before the Kalends of February, during the Consulate of the Emperor Theodosius, Consul for the seventeenth time, and Festus, 439.

.16The Emperors Theodosius and Valentinian to John, Count of the Imperial Largesses.

The chiefs of the Jews, who govern the Sanhedrim in both Palestines, or those who reside in other provinces, shall, at their own risk, be compelled by the officers of the Palace to collect the annual tax due from all the synagogues, in the same manner as the patriarchs formerly collected tribute, under the name of "coronary gold," and what was accustomed to be paid to the western patriarchs shall be deposited in the Treasury of Our Largesses.

Given at Constantinople, on the third of the Kalends of June, during the Consulate of Florentius and Dionysius, 429.

.17The Same Emperors to Florentius, Praetorian Prefect.

We order by this law, which shall be valid for all time, that none of the Jews (to whom all administrations and dignities are forbidden), shall perform the duties of municipal defender, nor do We permit them to assume the honor of father of the city, lest, strengthened by the authority of the office which they have obtained, they may have the power of judging, or of promulgating decrees against Christians, as well as frequently against the bishops of our holy religion themselves, and, by so doing, insult our faith.

(1)We also, for the same reason, direct that no Jewish synagogue shall be constructed of new materials, but permission is given to repair such old ones as are threatened with ruin.

(2)Hence, any Jew who may have received an office cannot enjoy the dignity which he has acquired; or if he has surreptitiously obtained a public employment which is forbidden, he shall, by all means, be deprived of it; or if he should build a synagogue, he is hereby notified that he has labored for the benefit of the Catholic Church; and those who have, by craft, obtained honors and dignities, shall be considered to remain in the same condition in which they previously were, even though they may have been unlawfully promoted to an honorable rank. He who has begun the construction of a new synagogue, not with the intention of repairing an old one, shall be condemned to pay fifty pounds of gold, and be deprived of the work which he is already presumed to do; and, moreover, it is hereby decreed that his property shall be confiscated, and that he shall be condemned to the penalty of death, as one who, by his false doctrine, has attacked the faith of others.

Given the day before the Kalends of February, during the Consulate of the Emperor Theodosius, Consul for the seventeenth time, and Festus.

Title 10. No Jew or pagan shall hold, possess, or circumcise a Christian slave.

.1The Emperors Honorius and Theodosius to Monoxius, Praetorian Prefect.

A Jew shall not purchase a Christian, or acquire him as a gift, or under any other title. If any Jew should have a Christian slave, or a member of any other sect or nation should think that he had a right to the possession of one, for any reason whatsoever, and should circumcise him, he shall not only be condemned to the loss of the slave, but shall also be punished with death, and the slave shall be given his freedom as a reward.

Given at Constantinople, on the fourth of the Ides of April, during the Consulate of the Emperors Honorius, Consul for the eleventh time, and Constantius, Consul for the second time, 417.

Title 11. Concerning the pagans, their sacrifices, and their temples.

.1The Emperor Constantius to Taurus, Praetorian Prefect.

We have determined that the temples shall be immediately closed in all cities, and access to them forbidden to all, so that permission for further offending may be refused to those who are lost. We also wish everyone to abstain from sacrifices, and if any person should do anything of this kind, he shall be laid low with the avenging sword; and We decree that his property, after having been taken from him, shall be confiscated to the Treasury, and that the Governors of provinces shall also be punished, if they have neglected to suppress these crimes.

.2The Emperor Theodosius to Cynegius, Praetorian Prefect.

Let no mortal have the audacity to make sacrifices, and by the inspection of the liver of the victim, and by presages, obtain the hope of vain promise, or (which is even worse), endeavor to ascertain the future by means of a detestable consultation; for he will be liable to even a more severe punishment who, in opposition to what has been forbidden, attempts to ascertain the truth of present or of future events.

Given on the seventh of the Kalends of June, during the Consulate of Arcadius and Bauto, 385.

.3The Emperors Arcadius and Honorius to Macrobius, Praetorian Prefect and Proclianus Deputy.

While We prohibit sacrifices in the temples, still We desire that the ornaments of all public works shall be preserved. Hence, in order that those who attempt to destroy them may not be supported by any authority, if any rescript or law should be produced by them, the document shall be taken from their hands and brought to Us.

Given at Ravenna, on the thirteenth of the Kalends of February, during the Consulate of Theodosius, 399.

.4The Same Emperors to Apollodorus, Proconsul of Africa.

As we have already abolished profane rites by a salutary law, We do not permit the common joy of all to be destroyed by abolishing the festive assemblies of the citizens; wherefore, We decree that the pleasures and convivial festivals of the people shall be conducted in accordance with the ancient customs, when the public wishes demand it, but that no sacrifices shall be offered, and no damnable superstition be observed.

Given on the thirteenth of the Kalends of September, during the Consulate of Paravius and Theodosius, 399.

.5The Emperors Honorius and Theodosius to the People of Carthage.

We order that all those places which the error of the ancients destined for sacred ceremonies shall be united with Our demesnes, and that such of them as, under any title whatsoever, the generosity of preceding Emperors or our Own Majesty has bestowed upon any private individuals, shall forever form part of their estates; but that any property which, by various Constitutions, We have decreed shall belong to our venerated Church, the Christian religion shall very properly claim for itself.

Given at Ravenna, on the third of the Kalends of September, during the Consulate of the Emperors Honorius, Consul for the tenth time, and Theodosius, Consul for the sixth time, 415.

.6The Same to Asclepiodotus, Praetorian Prefect.

We especially direct those who are really Christians, or are said to be such, not to presume to employ any violence against Jews or Pagans who live quietly, and do not attempt to cause trouble, or perform any illegal acts; for if, abusing the authority of religion, they should display any violence against them, or plunder them of their property, when convicted they shall be compelled to restore not only what they took, but also double the value of the same; and the Governors of provinces and other officials and principal authorities are hereby notified that (if they do not punish offences of this kind, but permit them to be committed by the populace), they themselves will be subjected to punishment.

Given at Constantinople, on the sixth of the Ides of June, during the Consulate of Asclepiodotus and Marinianus, 423.

.7The Emperors Valentinian and Martian to Palladius, Praetorian Prefect.

No one, for the purpose of reverence or worship, shall reopen the temples of the Pagans, which have already been closed, in order that the honor which was formerly shown to their idols and their infamous and execrable rites may be removed from our age; for it is held to be sacrilege instead of religion to adorn the impious portals of shrines with garlands; to kindle profane fires on the altars; to burn incense upon the same; to slaughter victims there, and to pour out libations of wine from bowls. Anyone who attempts to perform sacrifices contrary to this Our decree, and against the prohibition of the most sacred ancient constitutions, can be lawfully accused of the crime before any judge, and, if convicted, shall suffer the confiscation of all his

property, and the extreme penalty, and the accomplices of the crime as well as the ministers of the sacrifices shall undergo the same penalty to which he was sentenced; so that, terrified by the severity of this Our law, they may desist from celebrating forbidden sacrifices through the fear of punishment. If, however, the most illustrious Governor of the province as well as the judge himself, when the accusation has been lawfully made and the crime established, should, after proper examination, neglect to punish an offence of such gravity, they shall each immediately be compelled to pay fifty pounds of gold into Our Treasury.

Given on the day before the Ides of November, during the Consulate of the Emperor Martian and Adelphius, 451.

.8The Emperors Leo and Anthemius to Dioscorus, Praetorian Prefect.

Let no one dare to examine those things which have been frequently forbidden to men attached to the pagan superstition, and let him who ventures to. perpetrate anything of this kind know that he is committing a public crime. Moreover, We wish such offences to be suppressed, so that, even if an offence of this description is committed on the land or in the house of another, and the owner of the same is aware of it, the said land or house shall be confiscated to Our Treasury. The owners of the property, from the mere fact that they knowingly have consented for it to be contaminated by such a crime, shall, if they have been invested with any civil office or military command, be punished with the loss of the same, as well as with the confiscation of their property; and if they are private persons, they shall, after having suffered corporeal punishment, be sentenced to labor in the mines, or sent into perpetual exile.

Title 12. Concerning those who take refuge in churches; or who cry out while there; and let no one remove them therefrom.

.1The Emperors Arcadius and Honorius to Archelaus, Augustal Prefect.

Jews who are accused of any offence, or who are oppressed with debt, and pretend that they desire to unite with the Christian religion, and flee to churches in order to avoid the consequences of their crimes, or the payment of their debts, shall be prevented from doing so, and shall not be received there before they have paid all their debts, or have been discharged after their innocence has been established.

Given at Constantinople, on the fifteenth of the Kalends of July, during the Consulate of Caesarius and Atticus, 397.

.2The Emperors Honorius and Theodosius to Jovius, Praetorian Prefect.

For true and pious reasons, We direct that no one shall be permitted to remove from the holy churches persons who take refuge there, with the understanding that if anyone attempts to violate this law, he shall be considered guilty of the crime of treason.

Given on the tenth of the Kalends of April, during the Consulate of Constantine and Constans, 414.

.3The Emperors Theodosius and Valentinian to Imperius, Praetorian Prefect.

If a slave belonging to anyone, while armed, and without anyone observing it, suddenly takes refuge in a church, or at an altar, he shall immediately be removed therefrom, and his master or the person from whom he has escaped shall at once be notified; and the latter shall not be denied the opportunity of removing him without delay, but if, trusting in his weapons, the slave has conceived the insane idea of resistance to his master, the latter shall be granted the power to remove and take him away by the employment of any force with which this can be done. And if, in the course of the struggle, the slave should happen to be killed, no responsibility for damages will attach to the master, nor will there be any ground for accusing him of crime, where he who has passed from the servile condition to that of an enemy and a homicide loses his life.

Given on the Fifth of the Kalends of April, during the Consulate of Valerius and Aetius, 432.

.4The Emperor Martian to the People.

We notify all of you to abstain from every kind of sedition in the Holy Churches, and in all other venerated places, in which it is proper for you to offer your prayers in decent tranquillity, and let no one make use of loud cries, cause any tumult, commit any attack, or collect or hold any numerous assemblies in any part of a city or village, or in any other place whatsoever. For, if anyone thinks that the laws have been violated to his prejudice, he can go into court and demand the protection of the law; and all persons are hereby notified that if anyone disobeys, or contravenes the provisions of this Edict, or attempts to excite sedition, he shall be subjected to the extreme penalty.

Given on the third of the Ides of July, during the Consulate of the Emperor Martian, and Adelphius, 451.

.5The Emperor Leo to Erythrius, Praetorian Prefect.

We decree that the present law shall prevail everywhere (with the exception of this Royal City in which We Ourselves reside, and where, if consulted, We promulgate Constitutions with reference to different causes and persons whenever necessity requires), and that no one, of any condition whatsoever, shall either expel, drive out, or remove anyone who has fled from refuge to the holy churches of the orthodox faith; and that what is due from them to those who have taken refuge there shall be required of the reverend bishop or stewards; and persons who either attempt to plan or execute anything of this kind, or venture merely by thought or action to attempt it, shall undergo the capital and extreme penalty. We do not permit anyone to be expelled or ejected, at any time, from these places or their boundaries, which the provisions of former laws have established; or that anyone shall be detained, or placed under restraint in any of the said holy churches, in such a way as to be prevented from obtaining either food, clothing, or rest.

(1)If, however, any refugees should appear publicly in a church, and offer to answer those who complain of them, in the said sacred places, they shall be permitted by the judges, who have jurisdiction, to answer there in such a way as each of them thinks suitable, the reverence due to the said sacred places always being maintained.

(2)Let the steward, the defender of the church, or him to whom the episcopal authority has given charge of these matters, where anyone has concealed himself in property belonging to the church, decently, and without causing any annoyance, notify the person who has concealed himself on the said premises of the church, to present himself (if he should be found there.(

(3)When anyone has been notified in a civil action based upon a public or private contract, he will have a right to answer, either by himself, or (if he prefers) by an attorney, regularly appointed before the judge who has jurisdiction of the case.

(4)If, however, he should refuse to do this, or delays, the usual procedure of the courts, or the law, should be observed. Therefore, if he has any immovable property, having been summoned in accordance with the solemn Edicts, the delivery or sale of his personal property or land shall be made, in compliance with the decision of the judge, to the extent of the indebtedness. If he has movable property, and has concealed the same beyond the boundaries of the church, it shall be sought for by virtue of the decision of the judge, and through the exertions of the bailiff, wherever said property may be hidden, and, after having been discovered, it must be applied to the payment of the debt in accordance with equity, in favor of the Treasury, if the indebtedness is due to the State, or in favor of private individuals, if they are entitled to it. When the property is found on the premises of the church, or if it is proved to have been concealed or deposited with any member of the clergy, it must be sought out by the zeal and wisdom of the Most Reverend Steward, or by the diligence of the defender of the church; and in whatever way it may come into possession of the holy church measures must be taken for its disposition in an equitable manner, either by payment for the benefit of the Treasury, or the State, or creditors, or any just claimants whomsoever, in proportion to the amount of the indebtedness. Where, however, the property is alleged to have been deposited, or loaned for use, We desire that caution should be exercised in making the inquiry, so that if it is alleged, solely upon suspicion, to have been concealed by anyone, the suspected person may be ordered by the authority of the reverend bishop to satisfy his conscience by making oath. We also decree that whatever We have ordered with reference to the principal shall also be observed in the case of sureties, or mandataries, or of property belonging to them, or to their slaves, their partners, or joint-owners, and especially in the cases of all persons who are liable in the action; but if the refugees have taken the said persons with them on the premises belonging to the church, they must pay their debts with their property, whether they are due to the State or to private individuals, and the inquiry shall proceed by means of the church officials, wherever the property has been deposited. This rule also applies to freeborn and free persons.

(5)But if a slave, a tenant, a serf, a member of a household, a freedman, or any other person of this kind who is subject to the authority of another, after having either broken or purloined property, or stolen himself, should take refuge in any holy place, he shall immediately be returned to his former residence and condition, as soon as the

facts have been ascertained by the stewards or defenders of the church, whose duty it is to do this after he has been punished in the presence of the parties interested, in accordance with the rules of ecclesiastical discipline, or the nature of his offence; or after they have interposed their humane intercession in his behalf, or he has become secure through pardon, and taking an oath, as well as through having returned the stolen articles which he had in his possession; for it is not proper for him to remain any longer in the church, lest, on account of his absence, his legal rights may be denied him by his master, and he be supported to the inconvenience of the church, at the expense of persons who are needy and poor.

(6)The steward, or the defender of the church, must at once make diligent and careful inquiry with reference to the persons and circumstances of the individuals who take refuge in the churches, and notify the judges or magistrates having jurisdiction over their cases and persons, in order that they may execute the requirements of justice.

Title 13. Concerning those who are manumitted in churches.

.1The Emperor Constantine to the Bishop Protogenes.

It has already been decided that masters can confer freedom upon their slaves in the Catholic Church, provided they do so in the presence of the people and Christian bishops; and, in order to preserve the remembrance of the act, an instrument must be drawn up, which the masters shall sign as witnesses; hence freedom is not unreasonably granted and ownership relinquished by such an agreement as any one of you may choose to accept, provided the evidence of your consent is apparent.

Given on the sixth of the Ides of June, during the Consulate of Sabinus and Rufinus, 316.

.2The Same to Osius.

Persons who, with religious motives, have granted deserved freedom to their slaves in the bosom of the Church, are considered to have bestowed it in the same manner in which the Roman State formerly was accustomed to do with proper solemnity; but it was established that the rule was only relaxed in the case of those who liberated their slaves in the presence of bishops. We, however, make the additional concession to the clergy that, when they confer freedom upon their slaves, they may be said to have granted the full enjoyment of said freedom, not only in the sight of the Church and in the presence of religious persons, but also when they grant freedom under their last wills, or direct this to be done by any words whatsoever, so that absolute liberty will be conferred upon the slave from the day of the publication of the will, without the evidence of any judge or witness being required.

Given on the Kalends of May, under the Consulate of Crispus, Consul for the second time, and Constantine, Consul for the second time, 425.

Title 14. Concerning the laws and constitutions of the Emperors, and edicts.

.1The Emperor Constantine to Bassus, Prefect of the City.

It is part of Our duty, and is lawful for Us alone to interpret questions involving equity and law.

Given on the third of the Nones of December, during the Consulate of Sabinus and Rufinus, 316.

.2The Emperors Theodosius and Valentinian-Caesar, to the Senate.

The questions which We have decided in accordance with the reports and suggestions of judges, or after consultation with a council of the most distinguished nobles of Our Palace, and whatever concessions We have made to any corporate bodies, or to the envoys of a province, a city, or a curia, are not general laws, but only apply to those matters and persons on whose account they have been promulgated, and shall not be revoked by anyone; and he who desires to interpret them with excessive subtlety, or to annul them by means of a rescript which he himself may have obtained, shall be branded with infamy, and shall obtain no advantage through his deceitful conduct; and any judge who permits him to appear in court, or hears his case, or suffers him to make any allegations, or refers him to Us under the pretense of ambiguity, shall be punished with a fine of thirty pounds of gold.

Given on the eighth of the Ides of November, during the Consulate of the Emperor Theodosius, Consul for the eleventh time, and Valentinian-Caesar, 425.

.3The Same to the Senate.

Laws shall hereafter be observed by all persons as general ones, whether they have been communicated by Us in writing to your Venerated Assembly, or have been published in the form of Edicts; or have been requested either by petitions or reports which We have voluntarily issued; or where some suit has required the promulgation of the law. For it is sufficient for them to be known by the term edict, or be divulged to all peoples by the statements of the judges; or that they expressly contain whatever the Emperors decided had been determined in certain cases, and was also applicable to others of the same description. If, however, the law is styled a general one, or is ordered to apply to all persons, it shall obtain the force of an edict; and interlocutory decrees, which We, acting as judges, have rendered, or may render hereafter in any matter, shall not prejudice the Common Law. Anything which has been granted specially to certain cities, provinces, or corporate bodies, shall not be of general application.

Given at Ravenna, on the eighth of the Ides of November during the Consulate of the Emperors Theodosius, Consul for the twelfth time, and Valentinian, Consul for the second time, 426.

.4The Same Emperors to Volusianus, Praetorian Prefect.

It is a statement worthy of the majesty of a reigning prince for him to profess to be subject to the laws; for Our authority is dependent upon that of the law. And, indeed, it is the greatest attribute of imperial power for the sovereign to be subject to the laws and We forbid to others what We do not suffer Ourselves to do by the terms of the present Edict.

Given at Ravenna, on the third of the Ides of June, during the Consulate of Florentinus and Dionysius, 429.

.5The Same to Florentinus, Praetorian Prefect.

There is no doubt that he violates the law who, while obeying its letter attempts to destroy its spirit, for he will not escape the legal penalties prescribed, if, contrary to the intention of the law, he frequently and fraudulently takes advantage of its words; for We desire that no agreement, act, or convention shall take place between any contracting parties when the law forbids this to be done. We order that this shall apply to all legal interpretations in general, whether they are old or new, so that it will be sufficient for a legislator merely to have prohibited what he did not wish to be done; and that it is permitted to ascertain other matters from the intention of the law, just as if they had been expressed, that is to say, that where anything is forbidden by law and is done, it shall not only be void, but be considered as if it had not been done at all; although the legislator may have only made the prohibition in general terms, and did not expressly state that what had been done should be considered void. If, however, any act should be performed on this account, or on account of what had been done after the law had forbidden it, We direct that it shall be void and of no effect. Hence, in accordance with the above-mentioned rule, by which We have decided that where any act done contrary to law shall not be observed, it is certain that a stipulation of this kind will not hold, nor a mandate be of any force, nor an oath be admitted.

Given at Constantinople, on the seventh of the Ides of April, during the Consulate of the Emperor Theodosius, Consul for the seventeenth time, and Festus, 439.

.6The Same to Florentinus, Praetorian Prefect.

We do not wish that anything which has been decided in favor of anyone shall, under any circumstances, redound to his injury.

Given on the Kalends of August, during the Consulate of the Emperor Theodosius, Consul for the seventeenth time, and Festus, Consul for the fourteenth time, 439.

.7The Same to Cyrus, Praetorian Prefect and Appointed Consul.

It is certain that the laws and constitutions regulate future matters, and have no reference to such as are past, unless express provision is made for past time, and for matters which are pending.

Given at Constantinople, on the Nones of April, during the Consulate of the Emperor Valentinian, Consul for the fifth time, and Anatolius, 440.

.8The Same to the Senate.

We think that it is proper, O Conscript Fathers, that where some exigency arises with reference to another matter, in either a public or a private case, which demands a general law, and one not included among those which are ancient, this should first be discussed by all the great nobles of Our Palace, as well as your Most Illustrious Assembly, and if it is approved by all of them, as well as by you, it should be then revised, and again examined by all met together, and if they agree to it, it should be read in the Consistory of Our Majesty and be confirmed by the consent of all as well as by Our authority. Therefore, O Conscript Fathers, know that no law shall hereafter be promulgated by Us, unless the above-mentioned formalities have been complied with, for We are well aware that whatever has been decided by your council will contribute to the happiness of Our Empire and to Our own glory.

Given on the sixteenth of the Kalends of November, during the Consulate of Aetius, Consul for the third time, and Symmachus, 446.

.9The Emperors Valentinian and Martian to Palladius, Praetorian Prefect.

The most sacred laws which control the lives of men should be understood by all persons, so that their provisions being universally known, men may avoid what is forbidden, and observe what is permitted. If, however, anything should be found to be obscure in these laws, it must be explained by the interpretation of the Emperor and their severity and want of conformity with humanity be corrected.

Given on the sixth of the Ides of February, during the Consulate of Anthemius.

.10The Emperors Leo and Zeno.

When any doubt arises with reference to some new law, which has not yet been confirmed by long-continued use, the opinion of the judge is as necessary as the authority of the Emperor.

Given on the tenth of the Kalends of May, during the Consulate of Leo Junior, 446.

.11The Emperor Justinian to Demosthenes, Praetorian Prefect.

When His Imperial Majesty examines a case for the purpose of deciding it, and renders an opinion in the presence of the parties in interest, let all the judges in Our Empire know that this law will apply, not only to the case with reference to which it was promulgated, but also to all that are similar. For what is greater or more sacred than the Imperial Majesty? Or who is swollen with so much pride that he can despise the royal decisions, when the founders of the ancient law have decided that the constitutions which have emanated from the Imperial Throne have plainly and clearly the force of law?

(1)Therefore, as We have found that a doubt existed in the ancient laws as to whether a decision of the Emperor should be considered a law, We have come to the conclusion that this vain subtlety is not only contemptible, but should be suppressed. For this reason We hold that every interpretation of the laws by the Emperor, whether in answer to requests made to him, or whether given in judgment, or in any other way

whatsoever, shall be considered valid, and free from all ambiguity; for if, by the present enactment, the Emperor alone can make laws, it should also be the province of the Imperial Dignity alone to interpret them. For when any doubt arises in litigation on account of the conflicting opinions of the legal authorities, and they do not think that they are either qualified or able to decide the question, why should they have recourse to Us? And wherefore should all the ambiguities which may exist with reference to the laws be brought to Our ears, if the right to interpret them does not belong to Us? Or who appears to be capable of solving legal enigmas, and explaining them to all persons, unless he who alone is permitted to be legislator? Therefore, these ridiculous doubts having been cast aside, the Emperor shall justly be regarded as the sole maker and interpreter of the laws; and this provision shall in no way prejudice the founders of ancient jurisprudence, because the Imperial Majesty conferred this privilege upon them.

Given on the sixth of the Kalends of November, during the Consulate of Decius, 529.

Title 15. Concerning the Imperial Mandates.

.1The Emperors Gratian, Valentinian, and Theodosius to Fusignius, Praetorian Prefect.

Where anyone asserts that he comes with Our secret mandates, all persons are hereby notified that no one shall be believed unless he proves his statement by documentary evidence, nor let anyone be intimidated by his rank, whether he holds the office of tribune, notary, or count, but he must be required to produce our Sacred Letters.

Given at Heraclea, on the sixteenth of the Kalends of July, during the Consulate of Merobaudus, Consul for the second time, and Saturninus.

Title 16. Concerning Decrees of the Senate.

.1The Emperors Gratian, Valentinian, and Theodosius to the Senate.

Although a decree of the Senate has, of itself, perpetual force, We, nevertheless, support it by Our laws; adding that if anyone should attempt to obtain a rescript by some special petition, in order to be able to evade what has already been enacted, he shall be fined a third part of his property, and shall be considered infamous, as being guilty of the crime of corrupt solicitation of office.

Given at Heraclea, on the seventh of the Kalends of August, during the Consulate of Ricomer and Clearcus, 384.

Title 17. Concerning the explanations of the ancient law and the authority of the jurists who are mentioned in the digest.

.1The Emperor Caesar-Flavius-Justinianus, pious, fortunate, illustrious, victor and triumpher, always augustus, to Tribonian, the most eminent Quaestor of the Imperial Palace, Greeting.

Under the protection of God, by whose Celestial Majesty Our Empire has been delivered to Us, We have been fortunate in war, have adorned peace, and maintained the welfare of the State; and We have committed Our soul to the care of Almighty God to such an extent that We do not confide in Our arms, Our soldiers, Our leaders, or Our own genius, but place all Our hopes in the wisdom of the Holy Trinity alone, from which the elements of the entire world have been derived, and their distribution made throughout the globe.

(1)Therefore, as nothing is to be found in all the affairs of men which is so worthy of attention as the authority of the laws, which happily disposes of divine and human matters, and drives away all iniquity, and having ascertained that the body of the laws which has descended to us from the foundation of the City of Rome, and the time of Romulus, is so confused that it is extended to infinity, and is beyond the capacity of human nature; it was Our earnest desire to begin with the Constitutions of Our Most Sacred Predecessors, and correct them, and render their meaning more clear, and therefore we have included them in a single code, after having removed from them all superfluous repetitions, and misleading discrepancies, in order that they may afford to all men the ready protection of their morality.

(2)This work having been finished, and condensed in a single volume, upon which We have conferred Our Illustrious Name, We have determined, from a small and imperfect undertaking, to accomplish the greatest and most complete correction of the laws, and to collect and amend the entire jurisprudence of Rome, and place in a single code the scattered volumes of so many authors (an undertaking which no one else has ventured to either hope, or desire), and which appeared to Us extremely difficult, nay, almost impossible. But with Our hands raised to Heaven, and having invoked the eternal aid of God, We impose this task upon Our soul, confiding in the Almighty who can grant the accomplishment of things which are absolutely desperate, and cause them to be completed by the greatness of His power.

(3)We have also invoked the extraordinary aid of your integrity, and have first committed this work to your care, having already received the evidence of your genius through the arrangement of Our Code; and We have ordered that you should select as companions in your task such persons as you may approve of, not only from among the wisest instructors, but also from the most learned men of the bar of this Most Noble City. These, therefore, having been assembled and introduced into Our Palace, and We, having been pleased with your selection, have permitted them to compile the entire work, in such a way, however, that everything shall be subject to the supervision of your most discerning mind.

(4)Therefore, We order you to read and revise the books relating to the Roman law, composed by the ancient jurists, upon whom the Most Sacred Emperors conferred the authority of drawing up and interpreting the laws, so that from these works materials may be obtained without any repetition or disagreement (so far as this is possible) for a compilation which alone will be sufficient to take the place of all of them. But,

while others have composed books on the law, for the reason that their writings have not been accepted by any authorities, or have passed into common use, We do not consider these volumes worthy of Our attention.

(5)As these materials have been collected through Our liberality, it is necessary for them to be compiled in the very best manner; and in order to consecrate, as it were, the peculiar and most holy temple of justice, you will condense the entire body of the law into fifty books, embracing a certain number of titles, following, as far as may be convenient for you, not only the plan of Our Code, but also that of the Perpetual Edict, in such a way that nothing may be omitted from the above-mentioned compilation, but that in these fifty books the entire ancient law for almost fourteen hundred years shall be included, and, having been revised by Us, be, as it were, surrounded by a wall, beyond which nothing essential can be found; and that all the legal authorities shall be granted the same consideration, and no one of them be entitled to any advantage; because all are not superior or inferior to one another in every respect, but some are found to be of great weight in certain matters, and of less weight in others.

(6)You shall not, however, determine what is better and more equitable by taking into account the number of authors, as it may perhaps occur that the opinion of one, which on some points is inferior, may, on others, be preferable to that of a multitude of jurists who are of higher rank in their profession. Therefore, you will not immediately reject what was originally included in the notes of aemilius Papinianus, derived from the works of Ulpianus, Paulus, and Martianus, whose treatises formerly had no authority, on account of the distinction of the most illustrious Papinianus; but if you should perceive that any of these is necessary as a supplement to, or for the interpretation of the labors of that great genius, Papinianus, you will not hesitate to give them the force of law, so that all the most learned men mentioned in this Code may have authority, just as if their researches on the Imperial Constitutions had proceeded from Our Divine lips. For We very justly regard these works as Ours, because all their weight has been derived from Us, since a sovereign who corrects something which is not properly done is more entitled to praise than he who composed it.

(7)Moreover, We desire you to exercise your zeal, so that if you should find anything out of place in the ancient books, or anything that is superfluous or imperfect, whatever is too prolix should be condensed, and you must supply whatever is incomplete, and regulate the entire work in the very best manner possible, and if you should encounter anything in the old laws or constitutions that the ancients inserted in their books, which was not stated as it should have been, be careful to correct it, and arrange it in its proper order, so that what has been selected by you and inserted there may appear to be true and excellent, and, as it were, written in the first place, and no one will, by its comparison with the ancient works, venture to assert that the text is inaccurate. For as, by an ancient law which is designated "royal," all the rights and power of the Roman people were transferred to the Imperial authority, so We did not divide the entire law into different parts, according to authors, but We desired all of it to be Ours, so that the antiquity of their works could not, in any respect, have the effect of abrogating Our enactments. We desire that all those things which are included in Our compilation shall have the same force as if they had been written in the time of the ancients, and any contradictions which may be found therein shall be attributed not to those who wrote the laws, but to Our own choice.

(8)Therefore, no opposition (or antinomia, as it is called, to use the ancient Greek term), should claim any place for itself in the abovementioned code, but perfect harmony and connection should exist without any contradiction.

(9)Again (as has already been stated), We wish you to remove from this compilation all rules which resemble one another, and We do not permit those matters provided by the Sacred Constitutions which We have inserted in Our Code to be placed there as derived from the ancient law, for the sanction of the Divine Constitutions is sufficient to establish their authority, unless this should happen to be done either for the purpose of making a division, or to render the work more complete, or to obtain greater exactness; this, however, should occur very seldom, lest, by such repetition, thorns may appear in this meadow.

(10)Where, however, any laws contained in the ancient books have already fallen into desuetude, We, under no circumstances, permit you to insert them; for We only wish those to remain in force which frequent decisions have established, or the long-continued custom of this Fair City has confirmed; in accordance with the statement of Salvius Julianus, which says that all cities should observe the customs and laws of Rome, which is the capital of the world, but that Rome should not observe the customs of other cities. We understand by Rome, not only the ancient City, but also our Imperial Capital, which, by the grace of God, was founded under the most fortunate auspices.

(11)Therefore, We order that everything shall be governed by these two codes, one that of the Constitutions, the other that of the revised law, which is about to be compiled in a Code; or if anything else should afterwards be promulgated by Us in the form of institutes, the mind of the student of the rudiments of the law, having absorbed its original principles, will the more easily be directed to the knowledge of the higher branches of jurisprudence.

(12)We order that Our compilation which is to be made by Us, God willing, shall have the name of the Digest or Pandects, and that hereafter no commentary shall be added to it by persons learned in the law, to confuse by their verbosity the compendium of the aforesaid code, as was done in ancient times, when almost the entire law was thrown into confusion by the conflicting opinions of those who interpreted it; but it will be sufficient, by means of abridgments and a division of titles, which are designated paratitla, to call attention to certain facts, without permitting any inconsistency to arise in their interpretation.

(13)And, in order that no doubt may hereafter exist with reference to this compilation, We order that no words or headings shall be abbreviated, a practice which causes many contradictions through its own defects, but that the text of the code shall fully be written out, even where the number of the volume, or anything else is given; for We are not willing that these things shall be indicated by special initials or numerals, but they must be shown by fully writing them out in letters.

(14)Therefore, let all these matters be accomplished with the favor of God, your own wisdom, and the aid of that of the other most learned men as intelligently and rapidly as possible; so that the code, having been completed and divided into fifty books,

shall be offered to Us as a great and eternal monument of the" work, a proof of the providence of Almighty God, and the glory of Our Empire and of your labors.

Given at Constantinople, on the eighteenth of the Kalends of January, during the Consulate of Lampadius and Orestes, 530.

.2The Emperor Caesar- Flavius- Justinianus- Alamannicus- Gothicus-Francicus- Germanicus- Anticus- Alanicus- Vandalicus- Africanus, pious, fortunate, illustrious, victor and triumpher, ever augustus, to Theophilus, Dorotheus, Theodore, Isidore, Anatolius, Thalleleus, and Cratinus, most illustrious professors of the law, and Salaminius, most accomplished legal scholar, Greeting.

Who knows more thoroughly than you do that the jurisprudence of all Our Empire has already been revised and compiled, not only in the four Books of the Institutes or Elements, but also in the fifty Books of the Digest or Pandects, as well as in the twelve including the Imperial Constitutions? And, moreover, all those things which it was necessary to order in the beginning and after the completion of the work, and what We freely permitted to be done, have already been stated in Our Rescripts in the Greek as well as the Latin language, which We desire to endure for all time; but as you and all the other professors appointed to teach the science of the law should know what matters it is necessary in these times to bring to the notice of students, in order that they may become more accomplished and more learned, We have decided that the present Divine Rescripts should be addressed to you, in order that your own wisdom, as well as that of other professors who have chosen to exercise the same profession in every age, having observed Our rules, may be able to pursue the honorable course of legal instruction. Therefore, there is no doubt whatever that the Institutes should claim for themselves the first place in all legal studies, because they impart in elementary terms the first principles of the science of the law. Out of the fifty books of Our Digest We think that only thirty-six will be sufficient, not only for your explanations, but also for the instruction of youth; but it seems to Us to be proper to indicate their order, and the course to be pursued in interpreting them, to recall to your minds the practice which you formerly observed, and to show the usefulness as well as the applicability of Our new compilation, so that nothing pertaining to the science of the law may be overlooked.

(1)And, in former times, as you are aware, out of this vast multitude of laws which were included in two thousand volumes, and more than three million paragraphs, students received instruction from their masters from only six books, which were confused, and contained very few laws which were useful, the others having already fallen into desuetude, and all of them being inaccessible. Among these six books were included the Institutes of Gaius, and four separate ones; the first concerning the ancient law of the rights of a wife; the second relating to guardianships; and the third and fourth having reference to wills and legacies; and these books students did not read consecutively, but omitted several portions of them as superfluous. The work of the first year was not prescribed for those studying law, according to the plan laid down in the Perpetual Edict, but indiscriminately, and, as it were, collected at random, the serviceable being mingled with the useless, and the greater part being taken from what was of no value. During the third year, the students read what they had not gone part of the laws being given to them, with the exception of certain titles; as, after studying the Institutes, it was irregular to read anything else but what was placed first

among the laws, and deserved this name. After perusing these, which was not done continuously, but at random, a course which was for the most part fruitless, other titles were given to students from that division of the laws styled "On Judgments," and in these the reading was also not continuous, and the subjects were rarely useful, the rest of the volume being considered of no value. Next, they were given certain portions of the treatise designated "On Things," from which seven books were omitted, and from those which were read, many portions were left out as not being suitable, or adapted to instruction. During the third year, the students read what they had not gone over in both the other volumes, that is to say in the treatises "On Things" and "On Judgments," studied during the second year, and the way was open to them for the study of the most eminent Papinianus and his decisions. From the aforesaid compilation of opinions, which is contained in nineteen books, they received instruction in only eight, for the work was not given to them in its entirety, but only a few subjects out of many, and these the shortest ones, omitting those of greatest extent, so that the students, being still uninformed, laid them aside. Therefore, after having received only these works from their professors, they themselves studied the opinions of Paulus, and not the whole, but only a portion of them, in a very imperfect and badly arranged course. In this way the study of all ancient jurisprudence ended with the fourth year, so that if anyone desired to enumerate those matters in which he had received instruction, after making a computation, he would find that, out of so great a number of laws scarcely sixty thousand paragraphs contained a little knowledge, and all the remainder were inapplicable, and unknown, and only a very small proportion of these were cited, whenever the requirements of judicial procedure compelled this to be done, or you teachers yourselves obtained some idea of these laws by reading them, in order that you might have a little more knowledge than your scholars. Of this description were the monuments of ancient learning, which is confirmed by your own testimony.

(2)We, having found such a scarcity of laws to exist, and considering this to be deplorable, have opened the treasures of the law to those desiring to avail themselves of the same, and these being, as it were, distributed by your wisdom, scholars may become most learned expounders of jurisprudence. During the first year, they will devote themselves to Our Institutes, which We have compiled from almost all the substance of the ancient rudiments, which, from all their turbid sources, We have brought them into one pure lake, through the efforts of the illustrious instructor Tribonian, former Quaestor of our Imperial Palace, and Ex-Consul, as well as by those of you two, that is to say, Theophilus and Dorotheus, most learned professors of the law. We order that, during the remainder of the year, there shall be delivered to the students in their proper order the first part of the laws which are designated by the Greek term prota, and that nothing shall be taught before this, since what is first in order can have nothing to precede it; and We decree that these shall be the beginning and the end of legal instruction during the first year. We are unwilling that students of this kind should be called by the ancient frivolous and ridiculous name "dupondios," but we order that they shall be known as "New Justinians;" and this designation shall hereafter be employed for all time, so that those who desire to learn the rudiments of the science, and wish to receive the instruction of the first year, shall be worthy of Our name, because the first volume which has emanated from Our compilers must immediately be given to them. For, while formerly they bore a name worthy of the ancient confusion of the law, now as the laws are presented clearly and intelligently to their minds, it is necessary for them to be distinguished by a different designation.

(3)In the second year, during which We direct students to be called by the name of the edict which was formerly conferred upon them, and is approved by Us, We direct that they shall be given either the seven books On Judgments, or the eight books On Things, alternately; but We order that the said books on both these subjects shall be studied in their entirety, and be read in their regular course, without omitting anything, because they are all now invested with new excellence, and nothing useless, or which has fallen into desuetude can be found in them. We desire to be added to these two treatises, that is to say, that on Judgments and that on Things, during the second year, four special books which we have selected from the fourteen following works, namely, one book of the collection of three which We have compiled on Dowries; one of two on Guardianships and Curatorships; one of two on Wills; and only one of seven on Legacies, Trusts, and matters relating to the same; and We direct that these books which have been placed first in order among the above-mentioned compilations shall only be given by you to your students, and that the other ten shall be preserved for a more suitable time; because it is not possible, nor is the second year sufficient for instruction in the contents of the entire said fourteen books to be imparted by a teacher.

(4)During the third year, the following order shall be observed; namely, students shall be given to read the books On Judgments or On Things, as may seem best, and the threefold treatise on special laws shall be added. In the first place, the special book on the Hypothecary Formula shall be explained, which We have placed in its proper position where We treat of hypothecations, and, as it greatly resembles actions arising from pledge which are included in the books On Things, the two subjects are not distinct, as the principles of both of them are almost identical. And, after this special book, another is given to students, which We have compiled on the Edict of the aediles, the action providing for the rescission of contracts, and that relating to evictions, with the one based on stipulations for double damages; for when provision is made in the laws with reference to sales and purchases, it appears in the books On Things; and as all the matters which We have mentioned were inserted in the last part of the first Edict, We have necessarily transferred them to a place nearer the beginning, lest they might seem to be too far separated from sales, upon which they are dependent. We have included these three books with the treatise of the most learned Papinianus, which students were accustomed to study during the third year, not entirely, but reading them in a desultory way, selecting a few subjects out of many. The elegant and illustrious Papinianus will afford you material for study, not only in his Opinions, which have been composed in nineteen books, but also in the thirty-seven books of his Questions, and his two books of Definitions, as well as his Treatise on Adultery, for We have set forth all his explanations in the different parts of Our Digest, and in order that students of the third year, who are called Papinianists, may not lose their name and the festival celebrated in his honor, We have skilfully contrived to introduce it again in the third year. We have filled the book on the Hypothecary Formula with maxims taken from the same great Papinianus, so that the students may derive their name from him, and be styled Papinianists, and be mindful of him, and celebrate his festival day, as they were accustomed to do when they first began to study his laws; in order that by this means the memory of the most distinguished Prefect Papinianus may continue forever to be known; and with this the study of the law for the third year is ended.

(5)For the reason that it is customary for students of the fourth year to be designated by the Greek term litas, if they should prefer to retain this name they can do so; but instead of the Opinions of the most learned Paulus, of which they formerly read eighteen out of twenty books, doing so confusedly, as already stated, they must be sure to read repeatedly the ten books remaining out of the fourteen which We have previously enumerated, and they will obtain a greater and fuller fund of information from them than they formerly did from the Opinions of Paulus. The entire order of particular subjects compiled by Us, and divided into seventeen books, they shall be required to read, and, in addition, those We have inserted in two parts of the Digest, that is to say, the Fourth and Fifth, according to the division of the work into Seven Parts; and because what We have stated in the first words of Our Rescript will be found to be true, namely, that young men will become perfect in the knowledge of jurisprudence by the study of the first thirty-six Books of the Digest, and will become learned in, and fitted for, every lawful undertaking, and will not be unworthy of our age. With reference to the two other Parts, that is to say, the Sixth and Seventh of Our Digest which are composed of fourteen books, they have been inserted therein to enable persons afterwards to read them, and cite them in court. If, after they have absorbed them thoroughly, the students, during the fifth year, in which they are styled prolitai, endeavor to read as well as thoroughly to understand the last study of the course, the Code of Constitutions, they will not be deficient in any knowledge of the law, but will include the whole of it in their minds from beginning to end; and what almost never occurs in any other sciences,. which, although being inferior in importance, are almost infinite in number, has an extraordinary ending in this science alone, through what has been accomplished by Us at the present time.

(6)Therefore, all the secrets of the science of jurisprudence having been disclosed to students, nothing will remain hidden from them; but, having studied all those matters which have been compiled for Us through the agency of that most distinguished man Tribonian, and other jurists, they will become great orators and officers of justice, not only fitted to contend as athletes in court, but also capable of rendering decisions, and acting as leaders in their profession everywhere, as long as they live.

(7)We also desire that these three volumes which have been compiled by Us shall not only be taught in Our Imperial Cities, but also in the most magnificent City of Berytus, which anyone may well style the nurse of the law, for the reason that this has already been decided by former Emperors, and We do not wish that other places, which have not received this privilege from former sovereigns, should enjoy it; and as We have learned that certain men of little learning are teaching false legal doctrines to the students of the most polished City of Alexandria, as well as to those of Caesarea and other places, We hereby notify them to desist from this undertaking, with the warning that if they should dare hereafter to commit such an offence, and give such instruction outside of the Imperial Cities and the metropolis of Berytus, they shall be punished with a fine of ten pounds of gold, and be expelled from the city in which they do not teach the laws, but violate them.

(8)We now repeat what We stated in Our Rescripts, when, in the beginning, We ordered this work to be performed, and which, after its completion, We mentioned in another of Our Constitutions, namely, that no one of those who write commentaries on books shall place any abbreviations in these, or by any compilation shall cause any difference to arise in the interpretation or composition of the laws; and all copyists

who commit this offence hereafter, shall, after having undergone the penalty prescribed for the crime, pay double the value of the book to the owner of the same, if they sold it to him when he was ignorant of the fact; for anyone who buys a book of this kind cannot make use of it, because no judge will permit citations to be made from its pages, but will order that it shall be considered as not having been written.

(9)We decree that it is necessary to issue a warning to be enforced with severe penalties, in order that no one of those who are pursuing the study of the law, either in this Most Splendid City, or in the celebrated town of Berytus, shall presume to indulge in unworthy and contemptible sports, which in fact are more appropriate to the servile condition, and by means of which injury may be caused; or to commit any offence against their professors or fellow-students, and especially against those who, being inexperienced, have come for the purpose of studying law. For who calls those acts sports from which crimes arise? We do not, under any circumstances, permit things of this kind to be done, for We wish this part of the course to be pursued with the best order possible, during Our reign, and to have the minds of the students transmitted to posterity properly formed, and their tongues properly instructed.

(10)The distinguished Prefect of this Fair City shall see that all these rules are observed in this Most Magnificent Capital, and that punishment for their violation is inflicted, so far as the nature of the offence, and the rank of the youths and copyists demand. In the City of Berytus, the most illustrious Governor of maritime Phoenicia, as well as the Most Blessed Bishop of that city, together with the professors of law, shall be charged with this responsibility.

(11)Therefore, begin to teach the science of jurisprudence under the guidance of God, and open the way which We have found, in order that the students may become excellent ministers of justice, and of the State, and great honor will be yours, for all time; because such a change has occurred in your age as Glaucus and Diomedes made with one another in Homer, the father of all excellence, by exchanging things that were dissimilar: "Gold for copper, and articles worth a hundred for others worth nine." We order that these rules, without distinction, shall be observed in all ages, by professors and students of law, as well as by copyists, and the judges themselves.

Given at Constantinople, on the seventh of the Kalends of January, during the third Consulate of Our Lord Justinian, ever Augustus, 533.

.3The Emperor Caesar-Flavius-Justinianus, Alamanicus, Gothicus-Francicus, Germanicus, Anticus, Alanicus, Vandalicus, Africanus, pious, fortunate, illustrious, victor and triumpher, ever augustus, to the Senate and to all peoples.

The providence of Divine Goodness with reference to Us is so great that it considers Us worthy to always be preserved by its eternal favors. For a lasting peace was secured after the Parthian War, and the defeat of the nation of the Vandals; Carthage, nay more, all Lybia, was united with the Roman Empire for the second time; and in addition to this, God has given Us the opportunity, through Our diligence of compiling into a new and fairer form the ancient laws already oppressed with age, a task which before Our reign no one ever expected to see accomplished, and one hardly considered possible of attainment by human power. For it was, indeed, a wonderful undertaking to reduce to harmony all the Roman laws existing from the

foundation of the City to Our reign, a period embracing almost fourteen hundred years, and diversified with domestic contests, and to extend this compilation so as to include the Imperial Constitutions in such a way that no contradiction, repetition, or resemblance, can be found in it, and no two laws enacted with reference to the same matter shall ever appear; for this task, indeed, is one which belongs to Divine Providence, and could, under no circumstances, be accomplished by human weakness. Hence We, as is customary, have had recourse to the protection of immortality, and having invoked the Holy name of God, We have chosen to constitute Him the author and head of the entire work; and have entrusted its execution to that illustrious man Tribonian, Master of the Offices, Ex-Quaestor of our Sacred Palace and Ex-Consul; and to him We have committed the supervision of this undertaking, so that he himself, together with other eminent and most learned men, may accomplish Our desire; and that Our Majesty, with the assistance of Heaven, by constantly investigating and carefully examining the compilations made by the persons above mentioned, can correct and place in proper form anything found to be ambiguous and uncertain.

(1)Therefore, everything having been completed, and Our Lord God Jesus Christ having bestowed upon Us and Our officers the possibility of success, We have collected the principal constitutions in twelve books, which had already been included in the Code under Our name. Afterwards, however, having planned a still greater work, We permitted the ancient learned treatises on the law, already confused and scattered, to be collected and revised by the same distinguished man. As, however, We require an exact account of all this labor, it was suggested by the above-named distinguished jurist, that as almost two thousand books had been written on this subject, and more than three millions of paragraphs had been promulgated by the ancient authorities, it would be necessary to read, and carefully examine all of them, in order to select whatever might be best. This finally has been accomplished by means of celestial light and the favor of the Holy Trinity, in accordance with Our orders, which, in the beginning, We gave the above-mentioned distinguished man; and everything which is useful has been collected in fifty books, all ambiguities have been removed, and nothing which could cause difficulty having been suffered to remain, the title of the Digest or Pandects, which contain the legal arguments and decisions, and everything which has been collected from all sources, has been given to them; the entire work including almost a hundred and fifty thousand paragraphs. We have not incorrectly or unreasonably divided the work into seven parts, as We had in mind the nature and mysterious signification of these numbers, and have made a division of the different parts in conformity with them.

(2)Hence, the First Part of the series, which is called by the Greeks prota, is divided into four books.

(3)The second contains seven books, which are designated "Concerning Judgments".

(4)In the third collection We have placed all those matters which have reference to Things, and they are discussed in eight books.

(5)The fourth division, which is, as it were, the centre of the entire compilation, includes eight books, in which everything relating to hypothecation is embraced, so as not to be far from actions based upon pledge, which are treated of in the book On Things. Another book has been inserted in the same volume which includes the Edict

of the aediles; the action for the rescission of contracts; and stipulations for double damages, in case of eviction; because all these things are included under the head of purchase and sale, and the aforesaid actions, so to speak, originate from them. In the ancient arrangement of the Edict these subjects had been treated of in different places, and separated from one another, but now they have been collected and united through Our foresight; as it was necessary that matters which have reference to almost the same subjects should be placed in juxtaposition. Therefore, another book relating to interest, money advanced for the transportation of merchandise, documents, witnesses and evidence, as well as presumptions, has been added by Us to the first two, and the three special books above mentioned have been inserted near the Part treating of Things. After these, We have placed whatever has been mentioned with reference to the laws regulating betrothals, marriages, or dowries, and these we have included in three books. We have, moreover, written two books on guardianships and curatorships, and have placed the above-mentioned Part, embracing eight books, in the centre of the work, as containing the most useful and best decisions collected from all sources.

(6)The fifth part of the Digest is entitled, "Concerning Wills," in which whatever rules have been established by the ancients with regard to the wills and codicils of civilians as well as of soldiers, has been inserted. Five books on legacies and trusts have also been added, and as it was not improper for the description of the Falcidian Law to be included in the treatises on legacies and trusts, and for the book on the Trebellian Decree of the Senate to be added, this was done, and the entire Fifth Part has been divided into nine books. We have, however, thought that the Trebellian Decree of the Senate should alone be included, having rejected the captious subterfuges of the Pegasian Decree of the Senate, which were odious to the ancient authorities themselves; and having also omitted the superfluous and frivolous difference of the two degrees, We have ascribed to the Trebellian Decree of the Senate everything which was formerly included in both. Nothing, however, has been mentioned by Us in these books with reference to laws governing estates without owners, in order that, where affairs are not prosperous, there may be no cause for the increase of the calamities of the Roman people that, flourishing in civil war, have continued to exist in Our reign, an epoch which the favor of Heaven has strengthened with the security of peace, and rendered Us victorious over all nations, and in order that no mournful monument may cast its shadow over a joyful age.

(7)Next conies the Sixth Part of the Digest, in which praetorian possession of property which has reference to freeborn persons, as well as to freedmen, is embraced; so that the law which treats of degrees of relationship and affinity, legal inheritances, and intestate successions, under the Tertullian and Orphitian Decrees of the Senate, by which a mother and her children become heirs to one another, has been placed by Us in two books; We having reduced to a clear and concise arrangement the multitude of decisions relating to the praetorian possession of estates. Next, We have compiled in a single book all decisions by the ancient authorities pertaining to notices of the construction of new works, wrongful damage, both concerning buildings which threaten to fall, as well as provisions made for taking care of rain-water, besides whatever We have found that the laws prescribed with reference to farmers of the revenue and donations, both those inter vivos and mortis causa. Again, another book treats of manumissions and cases where freedom is involved, as well as many and various opinions relating to the acquisition of ownership, and the possession of property; and the titles under which these are contained are inserted in a single

volume. In another book, those who have had judgment rendered against them, as well as those who have confessed in court are discussed, and the seizure and sale of property to prevent defrauding creditors, is treated of. In the next place, interdicts of every description are combined, and after them come exceptions and prescriptions. Another book includes obligations and actions, so that the above-mentioned Sixth Part of the entire Digest is comprised of eight books.

(8)The Seventh and last Part of the Digest consists of six books which include everything relating to stipulations or verbal obligations, sureties and mandators, as well as novations, payments, releases, and praetorian stipulations; all of this being included in two volumes which it was not possible to enumerate in the ancient books on account of their multitude. Next in order come two terrible books on private offences and extraordinary public crimes, which contain all the severity and atrocity which characterizes their penalties. Mingled with them are also provisions with reference to audacious men, who, by contumacy, endeavor to conceal themselves to escape punishment; and also concerning penalties inflicted upon condemned persons, or of concessions granted in their stead as well as the nature of the same. One book, having reference to appeals taken against final decisions in both civil and criminal cases, has been composed by Us. All other matters pertaining to municipal magistrates, or to decurions, public employments or works, markets, liabilities contracted by promises, various judicial inquiries, the valuation of property, and the signification of terms as established by the ancients, and which have been regularly defined, are embraced in the fiftieth and last book of the entire compilation.

(9)All these things have been accomplished by the distinguished man and most learned Master, Ex-Quaestor, and Ex-Consul Tribonian, equally accomplished in the art of eloquence and the science of the law, prominent in knowledge of affairs, who has never considered anything of greater importance or dearer to his heart than obedience to Our commands. The work has also been perfected by other illustrious and most accomplished men, that is to say, the eminent Constantine, Count of the Sacred Largesses, and Master of Requests, who has always commended himself to Us on account of the good opinion We have had of him, and of his glory; and Theophilus, a brilliant man, and learned jurist of this Most Splendid City, who in a praiseworthy manner discharged his duty as expounder of the laws; and Dorotheus, an eminent man and a most capable Quaestor whom We have called to Our aid, while he was teaching students the laws in that magnificent City of Berytus, on account of his excellent reputation and distinction; and We have also made Anatolius, another illustrious man, a participant in this work, who himself was appointed interpreter of the law among the people of Berytus, and, having sprung from an ancient race of lawyers, was summoned to this task, for his father Leontius, and his grandfather Eudoxius, left behind them a distinguished and memorable reputation for legal knowledge, having succeeded Patricius of famous memory, as Quaestor and professor; and Leontius, a most eminent Prefect of consular rank, and Patricius his son, along with Cratinus, an illustrious man, Count of the Sacred Largesses, and a distinguished teacher of this Fair City, all of whom have been selected for the above-mentioned undertaking; together with Stephen, Menna, Prosdocius, Eutolmius, Timotheus, Leonidas, Leontius, Plato, James, Constantine, and John, men deeply learned in the law, who are employed in cases before the Grand Tribunal of the Prefecture, which takes precedence over all oriental Praetorian jurisdictions. These persons, having received on every hand the universal testimony of their worth, were selected by Us for the

execution of this undertaking of such vast importance, and all, having assembled under the supervision of the distinguished Tribonian, in order that they might accomplish this work under Our auspices, and with the favor of God, it has been completed in the fifth books aforesaid.

(10)We have so much reverence for antiquity that We can, under no circumstances, endure that the names of persons learned in jurisprudence shall be abandoned to oblivion, but each one of them who was the author of the law is mentioned in Our Digest, and this has only been done by Us in order that if anything in these enactments should appear to be either superfluous, imperfect, or inapplicable, it may receive the necessary addition or diminution, and may be handed down with the most accurate laws; and where many points which are similar are opposed to one another, that which appears to be the most correct shall be preferred to the others, and the same authority conferred upon all; so that whatever is written therein may appear to be Ours and composed by Our direction; and no one shall be so bold as to compare the laws which antiquity possessed with those which Our authority introduced, for the reason that many of great importance have been changed on account of their usefulness to such an extent that even where an Imperial Constitution appeared in the old books, We have not spared it, but have thought that it should be amended and improved; but the names of the ancient legislators have been left, and whatever was proper and necessary for the truth of jurisprudence We have preserved with Our corrections; and therefore where any ambiguity existed between them, We have explained it perfectly, without permitting any doubt whatever to remain.

(11)But as We have recognized the fact that ignorant men are not suitable for the accomplishment of a task requiring so much wisdom and that those who, standing in the vestibule of legal learning, may hasten to enter still further, We have decided that another moderate amendment should be prepared, so that those who are inclined to this study, and are, as it were, imbued with its principles, can penetrate its secret recesses, and view with open eyes the most excellent form of the laws; and We have therefore directed Tribonian, that eminent man, who has been selected for the supervision of the entire undertaking; along with Theophilus and Dorotheus, illustrious, and most learned professors of the law, who have been summoned for this purpose, to collect separately all the books that the ancients composed, which contained the first principles of jurisprudence, and are called "Institutes," and to take from them whatever might be useful, most appropriate, and adaptable to the practice of the present time; and that all found to be available should be carefully combined and arranged in four books, placing together the original foundations and elements of legal knowledge, supported by which young men could obtain a more extensive and perfect acquaintance with the laws. We have, however, admonished them to be mindful of Our Constitutions which We have promulgated for the amendment of the law, and not to delay to insert them in the work (so that what was formerly ambiguous may be clear), as well as what was afterwards established. This work, having been completed by them, has been offered to, and gone over as indisputable again by Us, and We have accepted it with willing mind, and decided that it is not unworthy of Our plan; and We have ordered that the aforesaid books shall be considered constitutions as was plainly stated in Our Decree, prefixed to the said books.

(12)Therefore, this compilation of the Roman law having been finished, and perfected in three parts, namely, the Institutes, the Digest or Pandects, and the

Constitutions, and the task having been completed in three years, which, when it was originally undertaken, was not expected to be terminated in ten, We have given thanks to Almighty God who has offered us the opportunity to fortunately carry on war, as well as to enjoy an honorable peace, and to formulate a most excellent system of laws, not only for the use of the present age but for that of those which shall come hereafter, and with pious mind, We have offered this work for the benefit of man.

(13)We have considered it necessary to bring this decree to the notice of all men, in order that they may learn out of what vast confusion and prolixity the laws have been brought within reasonable bounds, and the truth established; and that they may hereafter have laws which are as similar as compact, and placed within the reach of all; so that men may be able to easily obtain possession of the books containing them, and will not be overwhelmed with expense in the acquisition of a multitude of volumes of superfluous enactments; but that they may be secured with but trifling expense by the rich as well as by the poor, and an immense fund of legal information be rendered available by the expenditure of a very small sum of money.

(14)If, however, in so extensive a collection of laws compiled from an enormous number of volumes, some repetitions may, perhaps, be encountered, no one will be justified in thinking that this work should be blamed, but this defect ought in the first place to be attributed to the weakness of human nature, which is but natural; for to possess a memory of all things and to err in nothing is rather an attribute of divinity, than of mortality, as has also been stated by our ancestors; and then it should be remembered that, in certain cases, and these very rarely occurring, repetition is not useless and contrary to Our design. For either it was necessary for the law to be formulated under the different titles to which it is applicable on account of the connection of various matters; or, where it had been mingled with other subjects, it was impossible to divide it into different parts to avoid producing confusion throughout the whole; and in those places in which the ideas of the ancients were most perfectly set forth, it would have been improper to divide and classify what had been scattered among them indiscriminately, otherwise, the understanding as well as the ears of those who read them would be disturbed. In like manner, where anything was provided by the Imperial Constitutions this We have not, under any circumstances, permitted to be included in the Digest, as it is sufficient for it to be laid down in the Constitutions, except, very rarely, in cases in which repetition was allowed.

(15)Nothing which is contradictory can claim a place for itself, or be found in this Code; for if anyone should, with careful reflection, seek out the reason for a seeming discrepancy, while doing so something new will be found, or a clause with a hidden meaning will dispose of the complaint of contradiction, and put an end to the apparent discord.

(16)If, however, anything should have been omitted, which was, as it were, concealed in the depths of so many volumes, and, while it was proper to be inserted, was necessarily abandoned on account of its being involved in obscurity, anyone who is actuated by just principles can understand that this has occurred on account of the weakness of the human mind, and also because of the defects of the matter itself, which, mingled with many useless matters, offered no opportunity for its extraction from them; and finally, for the reason that it is much more advantageous to omit a few

things which are valuable than to overwhelm mankind with a vast number which are worthless.

(17)One remarkable fact, however, is disclosed by the perusal of these books, that is to say, the multitude of ancient laws is found to contain less than the present abridgment, for although many had already been enacted, still, persons who formerly engaged in litigation availed themselves of only a very few of these; either because it was impossible to procure them on account of the scarcity of books, or by reason of the ignorance of the parties litigant themselves; and hence actions were disposed of rather according to the arbitrary will of the judges, than by the authority of the laws. In the present compilation of Our Digest, however, the collection of legal enactments has been made from a great number of volumes the names of which We assert not only that the ancients were not acquainted with, but had not even heard of; and all of these have been assembled, and their substance thoroughly condensed, so that the multitude possessed by the ancients is found to be poor, and in comparison with it, our abridgment appears most opulent. That most illustrious man, Tribonian, obtained a vast number of books containing the legal wisdom of former times, among which there were many unknown to even men most learned in the law; all of which having been carefully read, whatever they contained which was best was extracted, and inserted into Our excellent compilation. Those who were engaged in this work not only read over the volumes from which the laws were extracted, but also many others in which they found nothing either useful or new, and which, with excellent judgment, they rejected as not being entitled to a place in Our Digest.

(18)For the reason that only divine things are perfect, and that the course of human legislation has always a tendency to extend to infinity, and there is nothing in it which can endure for all time, for Nature herself hastens to bring forth many new forms, We think that matters may subsequently arise which have not, as yet, been provided for by Our laws. Therefore, if anything of this kind should happen, recourse must be had to the Emperor for a remedy, since God has placed his Imperial fortune above all human affairs, so that he can correct and arrange all new cases which may arise, and establish them by proper rules and regulations. This principle was not first promulgated by Us, but has descended from Our ancient race; for Julianus himself, the most wise author of laws and the Perpetual Edict, stated in his works that if anything should be found imperfect in Roman jurisprudence, it should be supplied by an Imperial Decree, and not stand alone without amendment; but the Divine Hadrian, also, in framing the Edict (and the decree of the Senate has followed it), stated most explicitly that if anything should take place which was not referred to in the Edict, the Emperor had authority to decide it by his own rules, opinions, and comparisons.

(19)For these reasons You, Conscript Fathers, familiar with all these matters, and all the men of the earth, should offer the fullest acknowledgments to the Supreme Divinity, who has reserved so salutary a work for your times, as Divine Power has conferred upon you that which antiquity was not deemed by it worthy to receive. Therefore respect and obey these laws, without reference to such as are most ancient, and let none of you venture to compare them with former ones, or attempt to discover anything which may be conflicting in either, because We decree that all which has been inserted in Our collection shall alone be observed. And let nothing else either be cited, or produced, either in court or in any contest where laws are necessary, from any other books than these Our Institutes, Digest, and Constitutions composed and

promulgated by Us, unless the rash person who does so desires to be rendered liable for the crime of forgery, and to suffer the severest penalties, together with any judge who suffers him to be heard.

(20)In order that you may not be ignorant from what books of the ancients this compilation has been made, We have ordered this to be inserted in the first part of Our Digest, in order that it may be perfectly clear by what legal authorities, and from what works of theirs, many thousands in number, this fabric of Roman jurisprudence has been constructed. Moreover, We have chosen those legislators and commentators whose opinions were worthy of insertion in such an important compendium, and whom the most pious Emperors, Our predecessors, have not considered undeserving of credit, and have conferred upon them all the same weight, without according to any the right to claim the preference; for, as We have decreed that these laws shall take the place of constitutions, just as if they had been promulgated by Us, how could any greater or less authority be bestowed upon them, as the same dignity and power is conceded to all?

(21)It appears to Us to be timely to repeat here what We decreed in the first place, when, with the assistance of God, We ordered this work to be undertaken, namely that no one of those who is at present learned in the law, nor any person who may hereafter be born, shall presume to add any commentaries to these laws, unless .someone may desire to translate them into the Greek language, in the same order, and with the same arrangement in which they appear in the Roman idiom, which the Greeks call "Foot to foot" (kata poda) and if they should desire to make any notes on titles, or to compose abridgments called para-titles, We do not grant them permission to make any other interpretations to the laws which are, in fact, perversions of the same; lest their verbosity may bring dishonor upon Our laws, on account of the confusion which may arise, as was caused by the ancient commentators on the Perpetual Edict, a work well drawn up, but which they extended immensely by distributing their conflicting opinions here and there throughout the text, so that almost all Roman jurisprudence remains in a chaotic condition. If we have not been able to endure these discrepancies, how can the frivolous distinctions of those who come after Us be tolerated? They who may presume to do anything of this kind shall be considered guilty of forgery, and their work shall be entirely destroyed. If, however, anything should appear ambiguous, as has been previously stated, it must be referred by the judge to the decision of the sovereign, and it shall be explained by the Imperial Authority to whom alone has been granted the right to enact and interpret legislation.

(22)We have decided that the same penalty for forgery shall be inflicted upon those who hereafter shall dare to disfigure, or obscure our laws by means of abbreviations; for We desire that everything contained in them, that is to say, the names of the jurists, and the titles and numbers of the books, shall all fully be written out in letters, and not designated by abbreviations; and whoever prepares a work of this kind for himself, and inserts any such abbreviations in any part of the book or volume, is hereby notified that he is the owner of a worthless code, for We do not give permission for any citations to be made in court from one which contains in any part the defect of abbreviations. Any copyist who dares to transcribe these things shall not only be punished with a criminal penalty, as has been previously stated, but shall be compelled to restore to the owner double the value of the book, whether the owner himself ignorantly purchased it, or caused it to be made; which contingency has

already been provided for and published by Us in a Latin and a Greek Constitution addressed to professors of law.

(23)Moreover, We order that the laws which We have collected in the above-mentioned Codes, that is to say, the Institutes or Elements, and the Digest or Pandects, shall obtain their authority from the date of Our Third most happy Consulate of the present twelfth indiction, the third of the Kalends of January; and shall be valid for all time, having the same force as Our Constitutions and exerting their authority in all cases in court, whether these may hereafter be brought, whether they are at present pending, or whether they are under the jurisdiction of the tribunal itself or have been submitted for arbitration; and as for those which have already been terminated by a judicial decision, or settled by amicable agreement, We decree that they shall, under no circumstances, be revived. We have hastened to promulgate these laws during our Third Consulate, which We consider propitious for the reason that the most blessed aid of God and of our Lord Jesus Christ bestowed it upon the State, at the time when the Parthian War was terminated and followed by a lasting peace, and the third part of the world subjected to Our authority. For, in addition to Europe, Asia and all Lybia were then added to Our dominions, and this important legal work having been concluded, all the favors of Heaven were thus conferred upon Our Third Consulate.

(24)Therefore, all our judges shall receive these laws according to their jurisdiction, and shall cause them to be observed not only in their tribunals, but also in this Imperial capital, and the illustrious Prefect of this Fair City is hereby especially charged with their execution; and, moreover, the three eminent Praetorian Prefects of the East, of Illyria, and of Lybia, shall be careful to have them published and brought to the knowledge of all those subject to their jurisdiction.

Given on the seventeenth of the Kalends of January, during the third Consulate of our Lord Justinian, 533.

.4The Emperor Caesar-Flavius-Justinianus, Alamanicus, Gothicus, Francicus, Germanicus, Anticus, Alanicus, Vandalicus, Africanus, pious, fortunate, illustrious, victor and triumpher, always to be revered, and Augustus; to the great Senate and the People in all the cities of Our Empire.

After having made peace with the Persians, and obtained trophies from the Vandals, with the acquisition of all Lybia, and having, for a second time, united the renowned City of Carthage to our Empire, God gave Us the opportunity to bring to its desired end the work of the revision of the ancient laws, an undertaking which no Emperor before Our age thought was possible either to be planned or executed by human genius. For it was a most extraordinary thing for all the Roman jurisprudence, from the foundation of the ancient city to the date of Our reign, a period of almost thirteen hundred years, which, in its various parts, was sometimes in agreement with and sometimes in opposition to the Imperial decrees, not only to have removed from it whatever was contradictory, but also to have suppressed whatever was found to be identical or similar, and thus to afford a varied idea of the beauty of the law itself, so that every enactment might seem to have been passed to meet the exigencies of each individual case. This was undoubtedly due to the superior divinity and benignity of God, and not attributable to the exertion of human thought or power. Therefore We, in accordance with Our custom, having raised our hands to God, and besought Him that

he would consider Us worthy of his assistance, began the undertaking, and have at last completed it, through the agency of Tribonian, that most illustrious Master, and Ex-Quaestor of Our Sacred Palace, and Ex-Consul, as well as by the efforts of certain other eminent and learned men; and having diligently examined everything compiled by them, and carefully explained whatever was ambiguous, We have given to all the laws a suitable form, according to the knowledge and strength of intellect which has been bestowed upon Us by Our God and Our Saviour Jesus Christ.

(1)Therefore, We have inserted in the Code under Our name the Constitutions of the Emperors, formerly included in twelve books, and have collected in a single abridged and clear compendium all the opinions of the ancient founders of the law which are contained in almost two thousand volumes, and three millions of paragraphs, and, with the favor of Heaven, divided all these into fifty books, after having collected everything useful, and rejected everything ambiguous, without leaving anything contradictory. These books We designated the Digest or Pandects, for the reason that they contain divisions and decisions of the laws, and also because they have all the science of jurisprudence epitomized in them We have given them this appellation. They do not include more than a hundred and fifty thousand paragraphs, and We have divided them into seven treatises, which was not done improperly or unreasonably, but with reference to the nature and harmony of the number seven.

(2)Hence, We have divided into four books those things which are generally styled prota, or the first principles of the science.

(3)Next We have divided into another seven books those matters which treat of judgments.

(4)Likewise the part which treats of things only includes eight books.

(5)The following part of the work, which is the fourth and central one of all, We have divided into eight more books, in which the hypothecary action, which does not differ greatly from that on pledge, and the Edict of the aediles and the stipulation having reference to evictions are discussed, which two treatises are accessory to, and dependent upon sales; and although in the arrangement of the ancient laws they were widely separated, We have brought them together on account of their common relationship, and in order that what has reference to the same subject may not be far apart. After these two books, We have introduced whatever has been written with reference to interest, to loans on land as well as on sea; and what relates to evidence and presumptions We have combined in a single book; and in each of these three matters closely connected with the treatise on things are discussed. This having been done, We took up those laws which have reference to betrothals, marriages, and dowries, and to these subjects We have devoted three volumes in the order above stated. The two books which have reference to guardians of minors � I mean those which are ordinarily designated "On Guardianship" � We have included in an abridgment, and have completed the above-mentioned arrangement of eight books, and the central part of the entire work (as has already been stated), having inserted therein the most admirable and useful of all the laws.

(6)We have condensed everything relating to testaments, legacies, and trusts into nine books, at the beginning of which are placed those which relate to wills and codicils,

not only of all civilians but also of soldiers who desire to make testamentary disposition of their estates, and these compose two books entitled "Concerning Wills." The five following books contain matters which pertain to legacies and trusts, and everything which has been laid down with reference to their ambiguity; and as the explanation of the Falcidian Law is connected with, and dependent upon legacies and trusts, We have discussed it in its proper place, and have inserted it next to the treatise on legacies in a single book on the subject, with some brief additions. Again, for the reason that the Trebellian Decree of the Senate has been introduced into trusts in the same way as the Falcidian Law, We have placed all that has been decided on this subject under the Trebellian Decree of the Senate; considering that it is superfluous to give space to the Pegasian Decree of the Senate, and that the differences and agreements which have been established between these Decrees of the Senate are absurd, which, indeed, the ancients detested and called captious and wrongful. Having combined all these matters in a more simple form, and placed them under the head of the Trebellian Decree of the Senate, We perfected this Fifth Part of the entire arrangement in nine books. In these nine books, however, nothing has been said by Us with reference to estates which have no owners, and which were liable to confiscation, because this practice was only introduced during a period of public misfortune, and was a mournful monument of the Civil War; and it was not proper for it to continue to exist in these times, during which God gave Us peace at home and abroad, and when it was necessary to carry on war, enabled Us with His favor to prevail over, and conquer Our enemies.

(7)Next follows and appears the Sixth Part of Our entire compilation, included in eight books. These very properly begin with matters which treat of possession under the Praetorian Law, and, having examined them carefully in the same way as the others, We have classified not only those which have reference to freeborn persons, but also such as concern freedmen, rendering clear what in former times was doubtful, on account of its confusion and obscurity, being of the opinion that two books were sufficient for this purpose. We have also treated, in the same books, intestate successions, and the order of descent, inserting in one of them the different degrees of relationship, and at the end We have placed the Tertullian and Orphitian Decrees of the Senate, by which mothers and their children succeed to the estates of one another. Next in order after these topics comes another book relating to the construction of buildings, and of security furnished on account of houses which have become ruinous, and threaten to fall; and concerning persons who have been guilty of deceit or fraud in cases of this kind, as well as those who injure their neighbors by the flow of water; which book also treats of collectors of the public revenues, and donations, both indefinite and simple, and as such being made in consideration of death, the laws provide for. Again, whatever has reference to manumissions of every description and the actions brought on account of them are included in a single book. Further, all questions relating to possession, and the different grounds for obtaining it, We have inserted in a single treatise, or book. Moreover, everything pertaining to judicial decisions, and persons who have confessed anything against themselves in court, as well as matters having reference to assignments for the benefit of creditors, the detention of debtors, the sale, separation, and care of property, and measures to prevent the defrauding of creditors, are likewise collected in a single book. We have only devoted one book to interdicts; and next, We come to prescriptions or exceptions, and the times prescribed for their operation. We then discuss the various kinds of obligations and legal procedure, and We have arranged the contents of this Part,

which begins with praetorian possessions (as has already been stated), in eight books, constituting the Sixth Part of the entire work.

(8)The last Part of all, which is the Seventh, is composed of six books, beginning with stipulations, and then proceeding to the rules which have been laid down with reference to suretyship, the liability of debtors, payment by them, and their discharge; and also concerning agreements introduced by the authority of the Praetors; all of which has been condensed by Us into two books, which could not be said of those of the ancients, as there was an enormous number of them. We next proceed to the description of crimes, and discuss whatever pertains to minor offences which are called private, as well as to such as are styled extraordinary; but this appellation, "extraordinary," also applies to public crimes which are most atrocious in their character, and demand exemplary punishment. Moreover, in the two books which include matters relating to offences and crimes are inserted those regulations which have been prescribed with reference to offenders against the law who attempt to conceal themselves, as well as respecting their property, and the penalty which should be inflicted upon them, or the pardon which they may be able to obtain. In the beginning of the next book, appeals are discussed, a proceeding to which recourse is very frequently had for the annulling of pecuniary or civil decisions, as well as criminal ones. Again, whatever was provided by the ancient jurists with reference to citizens, municipal magistrates, decurions, offices and public works, markets, and promises of revenues and various judicial proceedings or examinations, the enumeration of citizens, the signification of terms, and the rules laid down by the ancients, are all contained in the last book. This one is the sixth of the compilation, beginning with stipulations, if reference is had to the beginning of that portion, but it is the fiftieth where the entire perfection or harmony of the compilation is considered.

(9)All these things have been compiled and elaborated in the very best manner possible, and as it was proper that it should be done in accordance with Our order, by the illustrious Tribonian, that most wise Master, Ex-Quaestor of Our Palace, and Ex-Consul, a man of experience in affairs, highly regarded for his eloquence, and well versed in the laws, and who has not disobeyed any of Our commands. He has also been assisted by others who have contributed their services to Us in this undertaking; namely, Constantine, the eminent Count of the Sacred Largesses, Master of Requests and Secretary of State, who in every respect has given Us a favorable opinion of himself; and Theophilus, the eminent master who, in a most praiseworthy manner, imparts legal instruction in this Imperial City with the greatest zeal and assiduity of which the occupation is worthy; and Dorotheus, the distinguished Quaestor, appointed Doctor of Laws in the city, by which We mean the venerated and splendid metropolis of Berytus, which itself has given him to Us on account of his high reputation and eminence, and has besought Us to make him a participant in this work; along with Anatolius, the most accomplished master, who himself, at Berytus, teaches in an elegant manner everything relating to the law, a man of the third generation of scholars renowned among the Phoenicians as interpreters of jurisprudence (for he traces his lineage to Leontius and Eudoxius, men of the most distinguished reputation, after Patricius, of illustrious memory, who held the offices of Quaestor and first Censor, and Leontius, the famous Ex-Prefect and Ex-Consul, as well as Patricious, his son, all of whom are worthy of the greatest admiration); and Cratinus, the eminent and learned Count of the Sacred Largesses, distinguished lecturer on the law in this Imperial City; and in addition to these, Stephen, Mena, Prosdocius, Eutolmius,

Timotheus, Leonidas, Leontius, Plato, James, Constantine, and John; all men thoroughly versed in jurisprudence, advisers of Our Prefects in Our praetorian prefectures, and who have justly attained a high reputation for legal knowledge among all men, have been decided by Us to be worthy of being chosen as participants in an undertaking of this importance. Therefore, the compilation of the Digest has been made for Us by these most distinguished jurists.

(10)We have such respect for antiquity that We have not permitted the names of the ancient legislators to be omitted, but have inserted that of each one in the laws, changing, however, in the latter what did not seem to be correct; removing some portions, and adding others; selecting what was best from many of them, and giving equal force and power to all; so that whatever is laid down in this book may appear to be Our own opinion; and let no one dare to compare those things which are included in this work with what formerly appeared in others, because We have changed for the better many things which it would not be easy to enumerate; even if anything in one of the constitutions of preceding Emperors should have been expressed in different language, for, although We have preserved their names, We have assumed the right to establish the truth of their laws, and therefore, whenever anything contradictory existed in them (and, indeed, there was a great deal), it has been suppressed, and every law has been clearly stated and brought to a definite conclusion.

(11)As, however, it was necessary to make a short abridgment for the benefit of those beginning the study of the law, who could not understand the higher branches of the science, We did not neglect this duty, and therefore, We directed the most eminent Tribonian, who was chosen for the supervision of this entire work, to be summoned with Theophilus and Dorotheus, most eminent and learned professors of the law, that they might select from the treatises composed by the ancients, all matters which were best adapted for the purpose, and of the most important in studies of this kind, so that they might collect them and offer them to Us, and mention Our Constitutions, which We promulgated for the improvement of the ancient law, and compile four books containing the first elements of legal science, which We have considered proper to designate as "Institutes." This compilation having been made, they presented it to Us, and We have carefully examined and weighed it, and have decided that it was not unworthy of Our design, and have ordered that it shall have all the force of Our Constitutions, and be considered as taking their place, which We have made clear to all from the introduction that we have prefixed to the said volume.

(12)Therefore the entire substance of the Roman law having been thus compiled in three parts, in an equal number of years (which, in the beginning, We considered to be beyond all hope of completion in ten years), but now, having been finished with such speed in three years, with the assistance of God, who has afforded Us the opportunity to make peace, and bring Our wars to a happy termination, and establish laws for the past, present and future, We have thought it to be proper to bring to the attention of all persons the zeal and wisdom which We have displayed in this undertaking. In this way it will become apparent how jurisprudence was rescued from the disorder and confusion in which it formerly existed, without the prospect of any end to this condition; and men will hereafter be able to make use of laws which are just, comprehensive, and present ready for the hands of all; a compendium admirably adapted to the purposes of litigation and easily to be acquired by those who may desire; so that there will be no longer need for larger sums of money to collect a vast

number of worthless books, but, with the expenditure of a very small sum, not only the rich but also those in moderate circumstances will have an opportunity to purchase this work.

(13)If, indeed, out of the multitude of the subjects which have now been brought together and collected from so many thousands of volumes, any which are similar or identical should appear (which, however, We think can rarely occur), although, considering the weakness of human nature, this will not seem to be inexcusable; for to make no mistake, or to be irreprehensible, or unerring in every respect, is an attribute of God alone, and not one of mortal constancy or power, as has already been stated by the ancients. Where, then, We have assumed a similar position, or the exigency of the case required that the same thing should be repeated under different titles, or one subject should be mixed with another which had already been explained, it has been impossible to dispose of this resemblance, either because the continuity of the entire text had to be preserved, or to avoid distracting the attention of the reader by the removal of what already had been written; and if sometimes the necessity of the case required this to be done, still it was effected in a few words, and has but little significance.

(14)We have also observed this with reference to the Imperial Constitutions and the laws dependent upon the same; for whatever was provided in them We did not permit to be inserted in this collection, except where, on account of some circumstance, the point demanded repetition.

(15)No one will easily find among matters included in this compilation any conflicting laws, provided he directs his attention to the scrutiny of all the appearances of contradiction; but some distinctions do exist, which, however, when examined, clearly show that an apparent discrepancy in one place often, in reality, has reference to something entirely different in another.

(16)If, indeed, anything which should be inserted has been omitted (and this might readily happen on account of the weakness of human nature), it will be much better for Our subjects to be freed from a multitude of worthless laws, even though they may be deprived of some few which appear to be useful, but which are buried and deposited in thousands of volumes, and probably would not have been noticed by any human being.

(17)For this reason, judges not having access to so many books (which it was formerly necessary to have copied), terminated actions too readily by making use of very few legal authorities, and rendered decisions in this manner either on account of their lack of works on jurisprudence, or because their strength was not sufficient to undergo the labor required for making such researches as were necessary to ascertain the numerous points which were useful. In the present compilation, however, a very large number of the laws in force have been collected from books which are extremely rare, and can hardly be obtained, and with whose very names many men most learned in the law are unacquainted. The materials for this, the above-mentioned illustrious Tribonian has furnished Us by providing an almost incalculable number of volumes, all of which, after being carefully read, have been assembled; and when those jurists who were called together by Us for this purpose encountered nothing

either applicable or new in many different ones which had been collected, they, with excellent judgment, rejected any citations from them in the compilation of this work.

(18)Where, however, anything new subsequently arises, which becomes a subject of controversy, and does not appear to be determined by these laws (for Nature knows how to make many innovations), God has conferred imperial power upon man in order that it may settle questions which may come up, and dispose of defects in the law, and has prescribed certain rules and regulations for the purpose of explaining what is ambiguous in human nature. We do not now claim credit for this, as Julianus, the most learned of all the founders of the law who were formerly eminent for their wisdom, is alleged to have said the same thing, and to have had recourse to the imperial authority to supply the legal deficiencies existing in the case of pressing and doubtful questions; and the Divine Hadrian of pious memory, also, included in a small volume all the Edicts promulgated by the Praetors, and for many years employed the great Julianus for that purpose, having stated in a public address, which he made in ancient Rome, that if any point should arise which had not already been determined, it was proper for those who belong to the magistracy to attempt to decide it, and to find a remedy in accordance with the judgments previously rendered in cases of the same kind.

(19)Therefore, You being aware of all these things (for We are addressing You, the Great Senate, and all the subjects of Our Empire), should acknowledge your gratitude to God, who has preserved such a benefit for Our reign, and avail yourselves of Our laws without paying attention to any of those included in the ancient treatises, or making any comparison of them with those which form part of Our compilation; because if some of them should appear not to agree with one another, still you cannot fail to be aware that what was ancient has been discarded by Us as imperfect, and that Our present work must now be held to possess authority; for We forbid the works of the ancients to be used hereafter. We, moreover, permit and decree that only the laws of this Our compilation shall be observed, and have authority in the State; so that anyone who attempts to make citations in court from the ancient treatises, and not from these two alone, and the book of Constitutions, compiled or drawn up by Us, or who has recourse to any other enactments, and any judge who allows them to be cited in his presence, shall be considered as guilty of forgery, and sentenced as a public criminal, and shall undergo the penalty prescribed for the same, which is manifest from the fact itself, even if We had not stated it.

(20)We have decided that it would be best to prefix to the Digest not only the names of the ancient founders of the law, but also the title of their works, from whence the body of laws now compiled by Us has been derived; and this We have ordered to be done. We have also, at the same time, directed that whatever has been drawn up with reference to these matters shall be added to this Our Divine Constitutions, in order that what was insufficient and uncertain in former times, and what has been contributed by Us, may be clear to all. We have also collected the treatises of those legislators or interpreters of the law which were approved and accepted by all persons, enjoyed the favor of former Emperors, and deserved to be quoted by them. When, however, any work was not known to the ancient legislators, We have forbidden it to be included in this compilation. We have conceded equal authority to all the treatises which We have made use of, without giving a greater preference to one than to the others; for if we have given the force of Imperial Constitutions to everything which

has been written by all of them, why is it that anything contained therein should be entitled to more or less consideration than something else?

(21)We now repeat the order which We issued at the time when we ordered this compilation of the laws to be made; and We, a second time, sanction it by confirming it, and forbid all persons who are now in existence, or may hereafter exist, to compose any commentaries on these laws, except where someone desires to translate them into the Greek language, which We command to be done literally, or what is styled "foot by foot;" and if he should wish to avail himself of paratitles (as a matter of convenience), he can do so; but he shall not make any other alterations, no matter how trifling they may be, nor give occasion for contradictions, ambiguities, or infinite repetitions of laws to arise, which formerly occurred during the arrangement of the ancient Edict, so that this work, which was originally extremely short, through the differences and discrepancies of the various commentaries, was protracted to an infinite length. For if anything in Our compilation should appear ambiguous, either to the parties litigant, or to the magistrates having jurisdiction, it must be decided by the Emperor, for this privilege is granted by the laws to him alone. Therefore, if anyone should dare to add any commentary to this Our compilation of laws, or should state anything in opposition to the form of this Our Decree, he is hereby notified that he will be liable to punishment for forgery, and that what he has written shall be taken from him and absolutely destroyed.

(22)The same penalty shall be imposed upon those who make use of any abbreviations or notes, in copying the laws (which abbreviations are called singulae), and to attempt to confuse the text; as well as upon those who do not write out in full, and in letters, the numbers and names of the ancient jurists, as well as all their laws. Let the purchasers of books of this kind also know that they are the owners of works of no value, for We do not consent that they shall quote such books in court, or employ them in any way, even if what is cited has reference to a part of the volume in which there is no such abbreviation or mark, or where no such abbreviation is found in any other part of the same, except the one from which the citation is taken. Hence the owner must consider the book as not having been written at all; and he who wrote it and delivered it to the ignorant purchaser shall pay double the amount of the damage sustained by him, and shall also be liable to a criminal penalty. We have already stated this in other constitutions, not only in those which have been promulgated in Latin, but also in others published in the Greek language, which We have addressed to professors of law.

(23)Therefore We order that these volumes (We refer to the Institutes and the Digest), shall have authority from the end of Our third most fortunate Consulate, that is to say from before the third of the Kalends of January of the present twelfth indiction; and shall be valid for all time, and have the same force and effect as the Imperial Constitutions, not only in cases which may hereafter arise, but also in those which are now pending in court, and which have not yet been amicably settled; for We do not permit any case which has been determined or settled to be revived. God has, indeed, favored Us in this third most famous consulate, as, during it, peace has been concluded with the Persians; and this great work on the laws, which never was even imagined by any of Our predecessors, has been completed; and a third part of the world (We refer to all of Lybia), has been added to Our dominions, for all these

benefits have been granted Us during Our third Consulate, by the grace of God and Our Saviour Jesus Christ.

(24)Therefore, all the worthy magistrates of Our Empire having received this, Our Divine Constitution must make use of Our aforesaid laws, each one in his own jurisdiction. The illustrious Praetorian Prefect of this Imperial City shall publish it, and Our most eminent and worthy Master of the Palace, and the renowned and fortunate Prefects of our Sacred Prefectures, not only of the Orient, but also those who have jurisdiction over Illyria and Lybia, must provide by their Edicts that these things shall be brought to the knowledge of those under their authority, so that none of all Our subjects can allege want of notice as an excuse.

Given on the seventeenth of the Kalends of January, during the third Consulate of our Lord Justinian, ever Augustus, 533.

Title 18. Concerning ignorance of law and of fact.

.1The Emperor Antoninus to the Soldier Maximus.

Although when you were conducting your case you may have omitted to make use of proper allegations through ignorance of the law, or because of your want of information as a soldier; still, if you have not yet satisfied the claim, I will permit you to avail yourself of all your means of defence, if proceedings have been begun to enforce the judgment.

Given on the seventh of the Kalends of May, under the Consulate of Asper, 213.

.2The Emperor Gordian to Juvenal.

You cannot readily be excused on account of your ignorance of the law, if, after having passed the age of twenty-five years, you rejected the estate of your mother; for your application for relief will be too late.

Given on the twelfth of the Kalends of May, during the Consulate of Arian and Papus, 244.

.3The Emperor Philip to Marcella.

If, after having been emancipated by your father, you neglected to claim possession of his estate within a year from the time of his death, you can, under no circumstances, allege ignorance of the law.

Given on the sixteenth of the Kalends of July, during the Consulate of Peregrinus and Aemilianus, 245.

.4The Emperors Diocletian and Maximian to Julian.

If, after an estate has been divided, a defect should be discovered in the will, you will not be prejudiced by anything which has been done through ignorance. Therefore inform Our illustrious friend, the Governor, that the will is forged, or cannot stand under the law, so that the document which was produced as a will having been annulled, you may obtain the entire estate.

Given on the eighth of the Ides of July, during the Consulate of Diocletian and Maximian, 293.

.5The Same, and Constantius and Maximian, Caesars, to Martial.

As the substance of the truth can, under no circumstances, be changed by false statements, you have done nothing by merely alleging that what really belonged to your father's estate formed part of that of your mother.

Given on the day before the Kalends of January, during the Consulate of Diocletian, Consul for the fifth time, and Maximian, Consul for the fourth time, 293.

.6The Same and the Caesars to Taurus and Pollio.

Where, as the result not of a business transaction, but through an error of fact, you have promised in a stipulation a certain amount of oil, which was not due, to Archonticus, and the Governor of the province is informed of your promise, after you have delivered what you owe, he shall hear you, if you demand to be released from delivery of the remainder.

Given on the fifth of the Kalends of May, 294.

.7The Same Emperors and Caesars to Zoa.

An error of fact, so long as the business is not terminated, prejudices no one; but where a case has been decided, it cannot be reopened under a pretext of this kind.

Given on the sixth of the Nones of July, during the Consulate of the above-mentioned Caesars.

.8The Same and the Caesars to Dionysia.

When a testament is declared to be void, slaves who would have become free under it, if it had been valid, will not obtain their liberty by the mere statement of the heir at law, who erroneously referred to them as the freedmen of the testator, or his own freedmen; as the will of a person who is mistaken is of no effect.

Given on the fifth of the Kalends of September, during the fourth Consulate of the above-mentioned Caesars, 302.

.9The Same and the Caesars to Gaius and Anthemius.

Although Sanius is said to have received a sum of money from you, as due from persons who are free, his heirs are not forbidden to raise the question of your status, as no one who is mistaken is considered to give his consent.

Given on the sixth of the Ides of December, during the fifth Consulate of the above-mentioned Caesars, 305.

.10The Same and the Caesars to Araphia.

Where anyone, who is ignorant of the law, pays money which is not due, he cannot recover it; for you are well aware that only ignorance of fact confers the right to recover money which has been paid when it was not due.

Given on the sixth of the Kalends of January, during the sixth Consulate of the above-mentioned Caesars, 306.

.11The Emperor Constantine to Valerian, Deputy.

Although it is not customary for relief to be granted to women who are ignorant of the law, in matters where they have been benefited, still, the constitutions of former Emperors stated that this rule does not apply to females who are minors.

Given on the third of the Kalends of May, during the Consulate of Gallicanus and Symmachus, 330.

.12The Emperors Valentinian, Theodosius, and Arcadius to Flavian, Praetorian Prefect.

We do not permit anyone to be, or pretend to be, ignorant of the Imperial Constitutions.

Given on the third of the Kalends of July, during the Consulate of Tatianus and Symmachus, 391.

.13The Emperors Leo and Anthemius to Erythrius, Praetorian Prefect.

In order that women may not be permitted indiscriminately to violate their contracts, in which they have omitted or ignored certain things, We decree that if they suffer any damage in their rights or property through their ignorance, relief shall be granted them only in cases where the authority of former laws favors them.

Given on the Kalends of July, during the Consulate of Martianus and Zeno, 469.

Title 19. Concerning the presentation of petitions to the Emperor, and what things may be asked for and what may not.

.1The Emperors Diocletian and Maximian to Firmena.

Although a person in a servile condition is not generally considered capable of presenting a petition, still the atrocity of the crime which has been committed, and the praiseworthy example of fidelity which you have exhibited for the purpose of avenging the murder of your master, has prevailed upon Us to order the Praetorian Prefect, to whom you must apply, to make search for the culprits and see that the severest vengeance authorized by the law is inflicted, after those matters which you have inserted in your petition have been heard.

Given on the eighth of the Ides of October, during the Consulate of Diocletian, Consul for the sixth time, and Maximian, Consul for the third time, 296.

.2The Emperor Constantine to Severus, Prefect of the City.

Whenever a dilatory exception is permitted by Our Rescript, access to Us shall be granted the petitioner; but an exception which puts an end to the entire affair, or exhausts its force, cannot be authorized without causing great loss to the other party; and therefore the relief of a peremptory exception shall not be applied for.

Given on the Kalends of July, during the Consulate of Paulinus and Julian.

.3The Same to the People.

Nothing which is injurious to the Treasury, or contrary to law, can be the subject of a petition.

Given on the day before the Kalends of October, during the Consulate of Constantine, Consul for the seventh time, and Constantine-Caesar, Consul for the fourth time, 354.

.4The Emperors Gratian, Valentinian, and Theodosius to Florian, Praetorian Prefect.

All rescripts which have been promulgated for the purpose of granting delay in the case of debtors shall not be valid, unless security sufficient for the payment of the indebtedness is furnished.

Given at Constantinople, on the eighth of the Kalends of March, during the Consulate of Antony and Syagrius, 382.

.5The Emperors Valentinian and Valens to Volusianus, Praetorian Prefect.

When anyone has presented a petition against the decisions of the Praetorian Prefect, and has failed to have it received, he shall not have permission to again present a petition for the same purpose.

Given at Rome, on the fifth of the Kalends of October, during the Consulate of Valentinian and Valens, 365.

.6The Emperors Honorius and Theodosius to Isidor, Praetorian Prefect.

We grant as a privilege to all persons, without distinction, that, where a constitution has been obtained by anyone who is free, or a rescript has been issued to a slave upon his petition, no inquiry shall be made to ascertain by whom the request was made.

Given on the third of the Ides of November, during the Consulate of Theodosius, Consul for the seventh time, and Palladius, 416.

.7The Emperors Theodosius and Valentinian to the Senate.

We order that rescripts which have been obtained contrary to law shall be rejected by all judges, unless they include something which may be of benefit to the petitioner, and does not injure anyone else; or when they pardon the crime of those making the request.

Given at Ravenna, on the eighth of the Ides of November, during the Consulate of Theodosius, Consul for the twelfth time, and Valentinian, Consul for the second time, 426.

.8The Same to Florentius, Praetorian Prefect.

It is of no advantage to attach copies of documents to petitions, but their substance must be stated, so that the truth of the petition may explain the facts to the Emperor, and he may be able to answer; and only where necessity requires it should words be inserted in the petition of whose meaning the parties are in doubt, to enable Us to render Our decision in accordance with reason.

Given at Constantinople, on the sixth of the Kalends of April, during the Consulate of Florentius and Dionysius, 429.

Title 20. When a petition presented to the Emperor causes a joinder of issue.

.1The Emperors Arcadius and Honorius to Remigius, Praetorian Prefect.

There is no doubt that issue is understood to be joined in a case, even after a petition has been presented to Us, and that it also affects the heir of him against whom it was directed, as well as the heir of him who presented it.

Given on the twelfth of the Kalends of April, during the Consulate of Arcadius and Honorius, Consuls for the fifth time, 396.

.2The Emperor Justinian to Menna, Praetorian Prefect.

We have considered it necessary to define temporary actions which become perpetual through the presentation of petitions, and rescripts issued on account of them, in order that no one may think that this only applies to such as are limited by time. Therefore, let all persons know that actions are perpetuated only through the presentation of petitions and rescripts which are issued concerning them, where they have been decided by the Praetor, and are restricted to the term of one year.

Given at Constantinople, on the Kalends of April, during the fifth Consulate of Decius, 529.

Title 21. No one has a right to present a petition to the Emperor while a case is pending, or after an appeal has been taken, or final judgment has been rendered.

.1The Emperor Alexander to Caperius.

Although the illustrious Governor of the province may have rendered a decision after you presented your petition, and before you obtained a rescript; still, as you did not appeal from his decision, the rescript, which you say you have subsequently obtained, will not have the effect of revoking what has been decided by the decree.

Given on the Kalends of March, during the Consulate of Lupus and Maximus, 233.

.2The Emperor Constantine to Probianus.

It is not allowed to present a petition while a case is pending, unless the delivery of the documents, or the communication of the decree is refused. Moreover, anyone, who attempts by the aid of a rescript or a consultation to revive a question which has already been decided, shall immediately have judgment rendered against him for all the costs of the case, in favor of his adversary; and all indulgence shall be denied him, if, in violation of this provision, he attempts to present a petition.

Given on the Ides of August, under the Consulate of Severus and Rufinus, 316.

.3The Same to All the People of the Provinces.

Anyone who fails to take an appeal which is proper must always remain silent, and cannot impudently solicit Our aid by means of a petition; and if he should do so, he will not only fail to obtain his wish, but he will be branded with infamy.

Given on the Kalends of November, during the Consulate of Bassus and Ablavius, 331.

Title 22. Where anything contrary to law or the public welfare is fraudulently included in, or obtained by a petition.

.1The Emperors Diocletian and Maximian and the Caesars to Gregorius.

He, to whom jurisdiction has been granted by Our Rescript, must, none the less, decide the case, even where you state that some matters relating to the transaction have been omitted from the petition.

Given on the fifth of the Nones of May, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

.2The Same, and the Caesars, Constantine and Maximian, to Statia.

An exception on the ground of falsehood may be filed where duplicity has been detected in a statement of law or of fact, or where fraud has been committed by remaining silent; and the judge who has been appointed must render his decision in accordance with the truth, and not base it upon the allegations of the party who opposes the exception.

Given at Sirmium, during the Consulate of the above-mentioned Caesars, 294.

.3The Emperor Constantine to Bassus, Praetorian Prefect.

We order that judges who forbid the falsity of petitions to be established shall be punished with a fine of ten pounds of gold.

Given on the Kalends of October, during the Consulate of Constantine, and Licinius-Caesar, Consuls for the third time, 313.

.4The Same to Pompay.

When an exception is ordered, even if no judicial investigation has taken place, it will be necessary to inquire with reference to the truth of the allegations and petitions, so that, if fraud should exist, the judge may take cognizance of the entire matter.

Given on the third of the Ides of November, during the Consulate of Dalmatius and Zenophilus, 333.

.5The Emperors Theodosius and Valentinian to the Senate.

If a mendacious petitioner should obtain an Imperial Rescript in conformity with the laws, he shall not have the benefit of it; and where excessive perversity is found in his falsehoods, he shall be abandoned to the severity of the judge.

Given on the seventh of the Ides of November, during the Consulate of Theodosius, Consul for the twelfth time, and Valentinian, Consul for the second time, 426.

.6The Emperor Anastasius to Matronianus, Praetorian Prefect.

We notify all the judges of Our Empire, of both superior and inferior jurisdiction, not to permit any rescript, pragmatic sanction, or Imperial annotation, which appears to be contrary to general law or to the public welfare, to be produced in the argument of any case; but they shall not hesitate, under all circumstances, to observe the general Sacred Constitutions.

Given on the Kalends of July, at Constantinople.

Title 23. Concerning different rescripts and pragmatic sanctions.

.1The Emperor Alexander to Superus.

If you and your brother should present a petition with reference to a matter in which you are both interested, although the rescript may be directed to only one of you, it will, nevertheless, be intended for both.

Given on the Ides of July, during the Consulate of Alexander, Consul for the second time, and Marcellus, 227.

.2The Emperor Claudius to Epagathus.

It is falsely asserted that rescripts have no authority after a year has elapsed, for whatever is stated in a rescript which has reference to the law should be eternal; provided the time in which it must be produced or heard is not limited.

Given on the seventh of the Kalends of November, during the Consulate of Antiochianus and Orphitus, 271.

.3The Emperors Diocletian and Maximian to Crispinus, Governor of the Province of Phoenicia.

We order that the authentic and original rescripts signed by Our own hand, and not copies of them, shall have authority.

Given on the day before the Kalends of April, during the Consulate of Hannibal and Asclepiodotus, 292.

.4The Emperor Constantine to the People of Lusitania.

Rescripts which confer personal privileges shall have no force if they do not contain the date, and the name of the Consul under whom they were issued.

Given on the fifth of the Kalends of August, during the Consulate of Probianus and Julianus, 322.

.5The Emperors Valentinian, Theodosius, and Arcadius to Nicentius, Praetorian Prefect of Subsistence.

To oppose Divine Rescripts promulgated for the benefit of some administration or office, resembles sacrilege.

Given at Milan on the Kalends of February, during the Consulate of Arcadius and Bauto, 385.

.6The Emperor Leo to Hilarian, Master of the Offices, and Patrician.

All documents of every description, which proceed from Us, shall not be of any other color than purple, made of the ashes of two kinds of shell-fish called murex and conchylus. It shall only be lawful to produce or cite rescripts in any judicial proceeding which have been drawn up on paper or parchment, and to which Our signature is attached. It shall not be lawful for, or permitted to anyone, to have or to seek for any dye of this kind, or to expect to obtain it from any source, and he who audaciously violates this rule shall be condemned to death, after the confiscation of all his property.

Given on the sixth of the Kalends of April, during the Consulate of Jordanus and Severus, 470.

.7The Emperor Zeno to Sebastian, Praetorian Prefect.

We order that all rescripts, whether they have been sent to the petitioners themselves, or to some judge (even if they contain an annotation or a pragmatic sanction), shall be produced only under the condition that they conform to the truth; nor shall a petitioner obtain any benefit from a rescript (even though he proves the truth of his statements in court), unless the allegations that the petition was presented in good faith is inserted in the rescript granted by Our Imperial Beneficence; for the illustrious Quaestor and the Masters of the Offices who draw up any Imperial Rescript whatsoever, without including in it the above-mentioned statement, and the judges who receive such a rescript, shall be reprimanded; and anyone who has dared to write down in an unlawful manner what has been dictated, whether they are the secretaries of a bureau, legal advisers, or their assistants, shall be punished with the loss of their office. We also order that pragmatic sanctions shall not be granted in answer to the petitions of individuals relating to private matters but only where some corporate body, office, curia, municipality, province, or association of men has presented a petition involving the public welfare, and we decree that a pragmatic sanction shall be issued. The allegation of the truth of its contents must also be inserted in the petition.

Given at Constantinople, on the tenth of the Kalends of January, after the Consulate of Basilicus, Consul for the second time, and Armatius, 470.

Title 24. Concerning statues and pictures.

.1The Emperors Arcadius and Honorius to Theodore, Praetorian Prefect.

Where any judge is ascertained to have permitted a statue of brass, silver, or marble to be erected to him during his term of office, without the permission of the Emperor, he is hereby notified that he must pay into our Treasury a fine of quadruple the amount of all the emoluments which he has received while in the office which he has polluted with his extortions or insolence, and shall also suffer the penalty of loss of reputation. For We do not wish those persons to be immune from the risk of infamy who, with the desire of flattery, or through the fear of being considered slothful, have attempted to perform acts which are prohibited.

Given at Milan on the twelfth of the Kalends of January, during the Consulate of Honorius, Consul for the fourth time, and Eutychianus, 398.

.2The Emperor Theodosius and the Caesar Valentinian, to Aetius, Praetorian Prefect.

Whenever any statues are erected, or pictures are publicly placed in Our honor, whether this is done on festival days (as is customary), or on ordinary days, a judge shall be there, without, however, permitting the inappropriate ceremony of adoration; so that by his presence he may honor the date and the place consecrated to Our memory.

Given on the third of the Nones of May, during the Consulate of Theodosius, Consul for the eleventh time, and the Caesar Valentinian, 425.

.3The Same Emperor and Caesar to Florentius, Praetorian Prefect.

We order that when pictures or statues are to be erected or publicly placed in Our honor, they shall not be taken from a private collection, in order to prevent the collector of the same from claiming any one of them as his own.

Given on the third of the Nones of April, during the Consulate of Theodosius, Consul for the seventeenth time, and Festus, 429.

.4The Same Emperor and Caesar to Nomus, Count, and Master of the Offices.

It is proper that the rewards of virtue should be bestowed upon deserving persons, but it is not necessary that honors conferred upon some should result in injury to others. Therefore, when a statue is erected to one of our judges, or to anyone else, by some association or office, either in this most Holy City or in one of the provinces, We do not permit the expenses of the same to be collected from others, but order that the statues shall be erected at the expense of the person in whose honor this was done.

Given on the fifth of the Kalends of April, during the Consulate of Theodosius, Consul for the eighteenth time, and Albinus, 444.

Title 25. Concerning those who take refuge at the statues of the Emperor.

.1The Emperors Theodosius, Valentinian, and Arcadius to Cynegius, Praetorian Prefect.

Where those who flee for refuge to the statues of the Emperor, either through fear of others, or for the purpose of arousing hatred against them, if they have good reason for doing so, they shall be judged according to equity, and the laws; but, if they are proved to have intended by artifice to excite animosity against their enemies, an avenging sentence should be pronounced against them.

Given at Constantinople, on the day before the Nones of July, during the Consulate of Our Emperor Honorius, and of Evodius, 386.

Title 26. Concerning the office of Praetorian Prefect of the East and Illyria.

.1The Emperor Alexander to Theodore.

A petition presented to the Praetorian Prefect shall not be considered sufficient ground for a joinder of issue.

Given on the day before the Kalends of October, during the Consulate of Agricola and Clementinus, 231.

.2The Same to Restitulus.

The rules promulgated by the Praetorian Prefect, even though they may be general in their character, must be observed, unless they contain something contrary to the laws or the constitutions, if they have not subsequently been annulled by My authority.

Given on the Ides of August, during the Consulate of Severus and Quintianus, 236.

.3The Emperors Valentinian, Theodosius, and Arcadius to Titian, Praetorian Prefect.

If Your Excellency should ascertain that any judges, on account of long-continued illness, negligence, theft, or some other vice of this kind, should not retain their office, after having removed them, and appointed others in their stead, and imposed upon them the penalties of the law prescribed for theft, they shall be sent to Us, not to be punished for their crime, but that vengeance may be inflicted upon them.

Given on the fifth of the Ides of December, during the Consulate of Arcadius and Bauto, 385.

.4The Same to Addeus, Count, and Commander of Both Armies.

The illustrious prefecture always has jurisdiction over an ordinary judge, even though he may have been guilty of injustice toward a military man.

Given at Constantinople, on the day before the Kalends of January, during the Consulate of Theodosius, Consul for the third time, and Habundantius, 393.

.5The Emperors Arcadius, Honorius, and Theodosius to Anthemius, Praetorian Prefect.

Where any persons are hereafter oppressed with unjust burdens, and think they should have recourse to petitions, either on account of matters relating to navigation, or the transportation of merchandise, all rescripts which may be issued with reference to matters of this kind must be addressed to your eminent tribunal.

Given on the Ides of December, during the Consulate of Stilicho, Consul for the second time, and Anthemius, 404.

Title 27. Concerning the office of Praetorian Prefect of Africa, and the condition of all the provinces of his jurisdiction.

In the Name of Our Lord Jesus Christ.

.1The Emperor Caesar-Flavius-Justinianus, Alemannicus, Gothicus, Germanicus, Francicus, Anticus, Alanicus, Vandalicus, Africanus, pious, fortunate, illustrious, victor and triumpher, ever Augustus, to Archelaus, Praetorian Prefect of Africa.

Our mind cannot conceive nor Our tongue express the thanks and the praise which We should manifest to Our Lord Jesus Christ; for We have previously received many benefits from God, and acknowledge that We have obtained many favors from Him, for which We admit that We have done nothing to render Us worthy; and now what Almighty God has deemed proper to manifest by Our agency for His own praise, and the glory of His Name, exceeds by far all the wonderful occurrences which have taken place during this century; as Africa through Our efforts has received her freedom within a short time, after having for ninety years previously been held in captivity by the Vandals, who are at the same time enemies of both the soul and the body, since by rebaptism they have brought to their perfidious belief such souls as were not able to endure the tortures and punishments inflicted upon them, and the bodies of the latter, illustrious by birth, were subjected to their barbaric yoke, by the exercise of the greatest severity; and some of the Holy Churches of God were profaned with their perfidy, and others were turned into stables. We saw venerable men who with difficulty related their sufferings, whose tongues had been cut out by the roots; and others who, after having endured various cruelties, and having been dispersed through different provinces, passed their lives in exile. In what terms, and with what labor could We give proper thanks to God, who rendered Me, the most humble of His servants, worthy to avenge the wrongs of His Church, and to rescue the people of so many provinces from the bond of servitude? Our predecessors did not deserve this favor of God, as they were not only not permitted to liberate Africa, but even saw Rome itself captured by the Vandals, and all the Imperial insignia taken from thence to Africa. Now, however, God, in his mercy, has not only delivered Africa and all her provinces into Our hands, but the Imperial insignia as well, which, having been removed at the capture of Rome, He has restored to us. Therefore after Divinity has conferred upon Us so many benefits, We implored the mercy of our Lord God, to keep firm and unimpaired the provinces which He deigned to restore to Us, and that He would enable Us to govern them according to His will and pleasure; so that all Africa might experience the mercy of the Almighty, and its inhabitants might realize from what a severe captivity and barbaric yoke they had been released, and with what freedom they were entitled to remain under Our most fortunate Empire. With the intercession of the Holy, Glorious, and Immortal Virgin Mary, the Mother of God, We implore and pray that God will, in His Name, through Us the most humble of His servants, restore everything which has been taken from Our Empire, and will render Us worthy of serving Him.

(1)With the assistance of God, and for the happiness of the State, We order by this divine law that all Africa, which God in His mercy has conferred upon Us, shall enjoy

perfect order and have a prefecture of its own; so that, like that of the Orient and of Illyria, Africa, by Our indulgence, may be adorned with the highest praetorian dignity, whose seat We direct to be at Carthage, and that its name be joined with those of the other prefectures, in the preamble of public documents; and We now decree that Your Excellency shall govern it.

(2)From the aforesaid city, with the aid of God, seven provinces with their judges shall be controlled, of which Tingi, Carthage, Bysatium, and Tripoli, formerly under the jurisdiction of Proconsuls, shall have consular rulers; while the others, that is to say, Numidia, Mauritania, and Sardinia shall, with the aid of God, be subject to Governors.

(3)We decree that three hundred and ninety-six persons, distributed among the different bureaus and military departments, shall be attached to your office, as well as to that of all other succeeding Praetorian Prefects of Africa. We also decree that fifty subordinates shall be attached to the office of each of the provinces presided over by consular rulers, or Governors.

(4)The notice appended hereto specifies the emoluments to which You yourself, as well as the said consular rulers and Governors, and each of their employees, shall be entitled from the Public Treasury.

(5)We desire then that all Our judges shall, in accordance with the will and fear of God, and Our choice and direction, endeavor to discharge their duties in such a way that no one may be actuated by cupidity, commit violence himself, or allow other judges or their subordinates, or any persons associated with them to do so. For We shall have reason to rejoice if We should have, throughout the provinces, with the assistance of God, officials free from reproach; and We especially provide for the interests of those tributary to the African jurisdiction, who, with God's assistance, can now perceive the light of freedom after so long a captivity. Therefore, We order that all violence and avarice shall cease, and that justice and truth shall prevail among all Our tributaries, so that God will be pleased, and Our subjects themselves can more rapidly be relieved and prosper, as do the others of Our Empire.

(6)We order the tax designated sportulae to be collected not only by the illustrious Praetorian Prefect of Africa, but also by the other judges, in the way provided for by Our laws, which should be obeyed throughout all Our Empire, and that no one shall presume at any time or in any way to increase the amount of said tax.

(7)We have thought it best to prescribe by the present law that judges shall not be obliged to incur great outlay for their letters or commissions, either in Our court, or in the offices of the Praetorian Prefect of Africa; because if they are not burdened with expense they will have no reason to oppress Our African subjects. Therefore, We order that the judges of the African jurisdiction, civil and military, shall not, in Our court, be charged more than six solidi for their commissions, and the letters authorizing their promotion; and that, in the office of the prefecture, they shall not be obliged to pay more than twelve solidi. If any judge should exceed the amount of the above-mentioned tax, he shall be required to pay a fine of thirty pounds of gold, and he will not only be liable to this fine, but also to the punishment of death. For if anyone should dare to violate Our commands, and should not, with the fear of God,

hasten to observe them, he will run the risk of losing his office, and his property, as well as of undergoing the extreme penalty.

(8)The notice above referred to, and which We, with the assistance of God have drawn up, is as follows. ... We have by this Divine Constitution fixed these sums to meet the expenses of the civil magistrates of Africa and their subordinates, not only those attached to the different departments of the prefecture itself but also to other tribunals. Your Excellency shall see that they are paid and carried into effect beginning with the Kalends of September of the thirteenth coming indiction, and you are hereby directed to give notice of this in public edicts addressed to all persons. We order, by the present Divine Constitution, that these regulations, promulgated by you, shall be established for all time; and with the assistance of God, by Our decree, We have also formulated them with reference to military judges and their subordinate officials, and the remainder of Our army.

.2The Same to Belisarius, General of the Army of the East.

In all Our designs and undertakings, We proceed in the name of Our Lord Jesus Christ, from whom We have received the rights of empire, through whom We have established a lasting peace with the Persians, and with His aid, We have defeated the most inveterate enemies and powerful tyrants, and have surmounted the greatest difficulties; and also, by means of His aid, it has been granted Us to defend Africa, and bring it under Our control. Likewise, with His assistance, We trust that it will be governed properly under Our direction, and firmly protected; wherefore, We have already, by the grace of God, appointed judges of civil administration, and established offices in each of the provinces of Africa, assigning to them such emoluments as each should receive; and, committing Our soul to His Divine power, We are now about to make a disposition of the various armies and their leaders.

(1)We order that the commander of the army of the Province of Tripoli shall have his headquarters in the city of Leptis Magna. The military commander of the Province of Byzacene shall alternately reside at Capsal, and the other Leptis. The military commander of the Province of Numidia shall reside in the city of Constantine. The military commander of the Province of Mauritania shall have his headquarters in the city of Caesarea.

(2)We also order you to station at the point opposite Spain, which is called Septa, a considerable body of troops with their tribune, who must be a prudent man, and one who is devoted to Our Empire, who can always guard the strait, and give information of everything that occurs in Spain, Gaul, or the country of the Franks, to his commander, in order that he may communicate the information to you; and you shall cause to be prepared for service in the strait as many swift vessels as you may deem expedient.

(3)We order Your Excellency to appoint a military commander in Sardinia, and provide as many soldiers as may be necessary to guard the places in his jurisdiction, who shall be stationed near the mountains where the people of Barbary are known to reside.

(4)Let those men to whose care the defence of the provinces has been entrusted be vigilant and protect our subjects from being injured by incursions of the enemy, and be ready to implore the aid of God, by day and by night, and exert all their efforts to extend the boundaries of the provinces of Africa to that point where the Roman Empire had its limits before the invasion of the Vandals and the Moors, and where the ancient guards were posted; as is shown by the forts and defences; and, moreover, let them, by all means, hasten to inclose and fortify those cities which formerly were situated near the fortifications which were erected when those regions were under Roman domination, when with God's assistance the enemy was expelled from the said provinces. And, let them dispatch officers and soldiers to those points where their boundaries were situated at a time when all the provinces of Africa formed a part of the Roman Empire, as, with the aid of God, through whose favor they have been restored to Us, We hope speedily to be successful. In order that these provinces may be preserved in security and peace, within their ancient limits, through the vigilant efforts of our most devoted soldiers, and may remain intact under the care of Our illustrious generals, it is proper that guards should always be stationed at the boundaries of each province; in order that no opportunity may be afforded to the enemy to invade or lay waste those places which are possessed by Our subjects.

(5)Your Excellency must determine, arrange, and report to Us, the number of soldiers, either infantry or cavalry, which it is necessary to post at the boundary for the purpose of guarding provinces and cities, so that if We consider the provision which you have made to be sufficient, We may confirm it; but if We think that something more should be done, We can increase the number.

(6)What the general is required to do with reference to himself and the men under his command, and what his duty is is set forth in the following notice.

(7)Therefore, as has already been stated, while the officers and soldiers are taking their positions in the places or towns to which We have ordered them to go, in accordance with Our disposition of them; then, with the aid of God and by Our efforts they can be stationed in those portions of Our dominions whose former boundaries were defined, when the above-mentioned provinces constituted an integral part of the flourishing Roman Empire.

(8)In order to maintain the boundaries it seemed necessary to Us that other soldiers, in addition to those in the camps, should be posted along them, who could defend the camps and cities situated there, as well as cultivate the soil; so that, other inhabitants of the provinces, seeing them there, might betake themselves to those places. We have made a list of the number of soldiers to be appointed to guard the frontiers, to enable Your Excellency, in accordance with the said list which We send to you, to make provision for their distribution through the camps and other places; so that, if you should find suitable detachments in the provinces, or where a military force was formerly stationed, you can fix the number of frontier guards for each boundary; and if any trouble should arise, these soldiers can, with their leaders, and without the aid of those in the camps, defend the points where they have been distributed; and neither they themselves nor their officers should extend the boundaries; and all this must be done in such a way that the aforesaid frontier guards may not be subjected to any expense by their officers and the latter may not fraudulently convert any of their pay to their own use.

(9)We desire that these rules shall not only be observed by soldiers appointed to guard the frontier, but also by those who are stationed in camp; and We order that every commander, and the tribunes of said soldiers shall constantly subject them to military exercises, and not permit them to wander about, so that, if necessity should arise, they can offer resistance to the enemy. And no general or tribune shall venture to give them leave of absence, lest while they attempt to earn money for themselves, they may leave Our provinces unprotected; for if any of the above-mentioned officers or their subordinates, or the tribunes, should unlawfully attempt to withhold any pay from the soldiers, or to acquire any profit from their emoluments, We order that they shall not only be condemned to publicly repay fourfold the amount appropriated, but shall also be deprived of their offices; for the generals and tribunes should expect a greater remuneration from Our liberality, in accordance with their services, than any profit they could acquire in the manner above stated; as the soldiers are appointed for the defence of the provinces, and We certainly furnish sufficient pay to their generals and other officers, and always make provision for their promotion to higher rank, and more important positions, in proportion to their efficiency.

(10)After it may have pleased God for all the boundaries to be restored to their ancient condition, and properly defined; and whenever necessity may arise, the generals, in their turn, when the case requires it, can, with the assistance of God, contribute by their vigilance and care to preserve the provinces or their frontiers unimpaired.

(11)As We order Our judges and soldiers to be bold and fierce towards the enemy; so We desire them to be gentle and kind towards Our subjects, and to cause them no damage or injury. If, however, any soldier should dare to inflict any wrong upon one of Our tributaries, he shall be punished in a manner worthy of the commander, the tribune, and the Emperor, so that Our tributaries may be secure from injustice.

(12)But if they should be interrogated before Our judges in any legal proceeding, We order the bailiffs not to receive any more sportulae, than are prescribed by Our laws, under penalty of suffering the punishment prescribed by the said laws for their violation.

(13)Therefore when, with the aid of God, Our African provinces have been placed at Our disposition by your grandeur, and their boundaries re-established, and all Africa restored to its former condition; and these matters have been disposed of and effected by you with Divine assistance; and you have reported to Us the establishment of all the dioceses of Africa, that is, how many, and what soldiers have been stationed in certain places or towns, and what frontier guards have been posted in what places, and to what branch of the service they belong; We order that you shall then return to Our presence.

(14)In the meantime, however, if Your Excellency should ascertain that certain cities or castles situated near the boundaries are of too great extent to be properly defended, you will take measures to have such fortifications constructed as can be well garrisoned with a small number of men.

(15)When Your Excellency, having disposed of all these matters, has been ordered to return to Us, the commanders of each boundary, whenever it becomes necessary to make any new arrangements with reference to cities or camps, and they have need of money to pay the troops, or for provisions, shall notify the Illustrious Prefect of Africa, so that he may immediately do whatever is requisite, in order that no injury may result to the province through delay.

(16)The said illustrious Praetorian Prefect of Africa, and the commanders of the army, must frequently report to Us what they have effected, and what remains to be accomplished, as well as everything which is taking place there; in order that We may approve what has been properly done, and that what is suitable to do hereafter may be carried out in accordance with Our wishes.

(17)We also decree that the judges appointed to preside over the frontiers of Africa shall not pay to anyone, no matter what his rank or dignity, in Our Most Sacred Palace in the Praetorian Prefecture of Africa, any more than the amounts contained in the notice hereto annexed. For if anyone should unlawfully take or accept any more than is specified in the said notice, he shall pay thirty pounds of gold by way of fine, and, in addition, run the risk of Our resentment; and no person, no matter what his rank or dignity may be, shall receive anything from the said judges, with the exception of those whose names are included in the notice hereto attached.

(18)For this purpose We (with the assistance of God) order that every military commander and his subordinates shall, in accordance with the notice hereto annexed, receive their pay from the tributes of the Province of Africa, from the Kalends of next September, of the thirteenth most fortunate indiction.

(19)This notice, God willing, shall be sent to the military commanders and their offices established in Africa, to secure their support and payment each year... .

Title 28. Concerning the duties of the Prefect of the City.

.1The Emperors Valentinian and Valens to Volusianus, Urban Prefect.

Desiring to firmly establish the condition of the City, and the distribution of provisions, it has occurred to Us that this duty should not be entrusted to everyone; and in order that the Prefecture of the City may not think that any of its functions have been abrogated, if the entire obligation of providing for subsistence should be taken from it, We direct that it shall all be committed to the supervision of the prefecture; not in such a way, however, that the office of the Prefecture of Subsistence may lie dormant, but that the two offices may have charge of the distribution of provisions, according to the interest of each of them, and that the official duties may jointly be discharged by them in such a way that the one of inferior rank may recognize the superiority of the other, and the one of greater authority may be conducted so that it may be known what is due to the Prefect of Subsistence, without mentioning the fact.

.2The Same to Ampelius, Urban Prefect.

Although you are not ignorant of what has been stated in Our Rescript with reference to laws which have been promulgated, it is proper that you should observe them, in accordance with what We have stated, and not think that you can summon before you any other persons of the province except your subordinates, and men belonging to the populace of this Fair City, who have been accused of sedition.

.3The Emperors Valens, Gratian, and Valentinian to Rufinus, Urban Prefect.

The Urban Prefecture shall take precedence in dignity and power over all the remaining ones of the City, no matter from what source they are derived; provided it does not, by usurping honors or functions belonging to others, cause injury and wrong.

Given on the sixth of the Kalends of July, during the Consulate of Valens and Valentinian Junior, 368.

.4The Emperors Valentinian, Theodosius, and Arcadius to Severinus, Count of the Sacred Largesses.

Know that every kind of corporate body which exists in the City of Constantinople, and all the citizens and populace, are subject to the jurisdiction of the Urban Prefecture.

.5The Emperor Theodosius to Constantine, Urban Prefect.

The Primicerius who has been the assistant of your office for two years, and who, in accordance with the custom of ancient times, has discharged his duties for that period, shall have charge of Our correspondence, provided he abandons all usurpation and corrupt intriguing for office; and it should be added, that if anyone belonging to the order above mentioned is shown to have lost his rank in the army either by death, or for any other reason, his place must be supplied without paying attention to the aspirations of anyone, by the appointment of him who occupies the highest position in the public register.

Title 29. Concerning the office of General of the Army.

.1The Emperors Valentinian, Gratian, and Theodosius to Eugenius, Praetorian Prefect.

The illustrious counts and commanders of infantry and cavalry have absolutely no authority over the people of the provinces, nor has the prefecture any over the soldiers.

.2The Emperors Honorius and Theodosius to Hypatius, General of the East.

The subordinates of your office appointed throughout the East shall not be summoned before any other tribunal than yours. Know, therefore, that they must bring their actions before you, whether they be civil or criminal.

.3The Emperor Zeno to Sebastian, Praetorian Prefect.

We order that all subordinates who have been appointed to office under the command of the General of the East shall be subject to the jurisdiction of all civil judges in any matter in which they are interested; as there is no doubt that those of them who are tributary are not obliged to obey the decisions of civil judges.

.4The Emperor Anastasius to John, Military Commander of Illyria.

We order that soldiers shall not be transferred from the points where they are at present stationed, to other places, without Our express authority, nor shall their pay be diminished while they remain in the same garrison; but if anything urgent or necessary should arise requiring their removal, application should be made, without delay, to the Praetorian Prefect, as well as to yourself, where the public welfare and safety are involved; in order that you may bring the facts to Our notice, stating the places from which the soldiers should be transferred, as well as those to which they ought to be sent, and the names of the principal commanders under whose orders the said soldiers shall be, as well as the amount of provisions required; and, above everything else, for what reason the said soldiers should be transferred, so that, after having received this information, proper measures may be taken by Us.

.5The Emperor Justinian to Zeta, Military Commander of Armenia, Pontus, and elsewhere.

The government of the Roman Empire having been conferred upon Us through the favor of the Almighty, with a view to administering it with zealous care and cautious diligence, We have deemed it necessary to appoint by this law a military commander for Armenia, Pontus, and other provinces; and, confiding in your great abilities, which have been brought to Our knowledge by your former achievements, We have selected you as being fitted for the office; and, having entrusted to your care certain provinces, that is to say, those of Greater Armenia, which is called Central Armenia, namely, Anzitena, Acilisena, Hobordena, Sophena and First and Second Armenia, as well as Polemoniac Pontus, together with their Governors; the Count of Armenia having been removed, We place under your command all bodies of soldiers, not only those which We have raised at the present time, but also those already in service in the East and elsewhere. We did not diminish their number but have even added to it, without imposing an additional burden upon the State; and although We have discharged some without additional expense, even after their dismissal the number still remains larger than at the time of Our accession to the throne.

Title 30. Concerning the duties of Quaestor.

.1The Emperor Theodosius to Salustius, Quaestor.

Know that the charge of the entire smaller register of the names of public officials is committed to your charge, so that all the offices contained therein, that is to say, the prefectures, the tribuneships, and the commanders of camps, shall be bestowed in

accordance with your judgment, and afterwards, as is customary, sent to Us for confirmation.

Given at Constantinople, on the sixth of the Kalends of May, under the Consulate of Castinus and Victor, 424.

.2The Same to Helio, Count, and Master of the Offices.

I hereby decree that all the offices enumerated in the smaller register, which were formerly considered to be under the care and in charge of the illustrious Quaestor, and were afterwards transferred with the authority attaching thereto, and either wholly or in part placed at the disposition of military commanders, shall hereafter be subject to the control of the Quaestor, in accordance with the custom of ancient times.

Given on the third of the Kalends of May, during the above-mentioned Consulate, 424.

.3The Emperor Anastasius to Eusebius, Master of the Offices.

It shall be lawful for no one, under any circumstances whatsoever, without Our written authority duly signed by Us, to discharge the various duties of the offices belonging to Our Bureau of Petitions; and anyone who hereafter may be convicted of this offence, shall be punished with the confiscation of his property; and if any person in the province should dare, on his own responsibility, to usurp these functions, and the Governor of said province should fail to obtain for him the alleged rescript upon which he based his authority, he shall be punished with a fine of three pounds of gold.

Given at Constantinople, on the Kalends of March, during the Consulate of Anastasius and Rufinus, 492.

Title 31. Concerning the duties of Master of the Offices.

.1The Emperor Constantine to Those who Transact the Public Business.

The privileges formerly granted to your class are preserved intact, but no one shall obtain the employment of Ducenarius, Centenarius, or Hiarchia, by favor, but through merit; and your superior shall be appointed according to his place upon the register, so that those who are entitled to the position, as well as their assistants, may discharge their duties in accordance with priority of service. Moreover, the condition of the entire class, and the security of the chief, demand that the latter be a man of good morals, and endowed with the proper qualifications, and that he be presented to Us by the Master in order to be confirmed, if We should deem it proper.

.2The Emperors Valentinian, Arcadius, and Theodosius, to Patricius, Master of the Offices.

No one belonging to the class of Public Business Agents shall violate the rules prescribed for promotion in the civil or military service, even though he may have

fraudulently obtained Our authority to do so; and if anyone should be proved to have been guilty of conduct of this kind, he shall be degraded to the position from which he was illegally promoted, so that he who is entitled to preference, either through his services or his labors, may be advanced in rank.

.3The Emperors Theodosius and Valentinian to Pleitius, Count and Master of the Offices.

The devotion shown by Our scholarii to Our ancestors has caused Us to entertain the greatest affection for them, and therefore We have thought that anything which has reference to the maintenance and preservation of their privileges should be granted without hesitation. Hence, approving your suggestion, We refuse the said scholarii permission to whip or degrade Senators and Ducenarii; and We desire that information of any offences which deserve such punishment shall be given to your tribunal.

.4The Same to Nomus, Master of the Offices.

We have thought that it should be made a part of the duties of your office to file an annual report, stating the number of soldiers on every boundary subject to your jurisdiction, as well as the condition of the camps and fortresses situated there.

Given at Constantinople, on the second of the Ides of September, before the Consulate of Maximus, Consul for the second time, and Paterius, 443.

.5The Emperor Justinian to Tatian, Master of the Offices.

We order that only those shall be included in a body of Our devoted scholarii who merit Our favor, and that anyone who has the administration of your tribunal temporarily shall not be allowed to admit a member into this respectable Order without Our approval, and he who, without the authority of a rescript, dares to assume this rank, is hereby notified that he shall not only be deprived of it, but shall also be subjected to a fine of twenty pounds of gold.

(1)We also wish the following rule to be observed, namely, that when anyone vacates the office or place of a scholarius, he whom We have authorized by Our Rescript to occupy the vacant position shall be appointed in his stead.

(2)We desire that, so long as you exercise the functions of Master of the Offices, you will make a report every four months of the condition of the scholarii. This report should be sent to, and deposited in the Bureau of Registers, in order that We may always have information of the said scholarii, and that no injury may result to the State.

Given on the tenth of the Kalends of May, at Constantinople, during the Consulate of Mavortius, 523.

Title 32. Concerning the duties of Count of the Sacred Largesses.

.1The Emperors Arcadius and Honorius to Count Limenius.

The principal duty of the Palatines is at their own risk to give Us information of the negligence of judges through the notaries designated for that purpose, so that, if the case demands it, their failure to perform their duty may not go unpunished.

(1)It is also proper for them to report the names of judges who pay more attention to their own business than to the public welfare; and they are hereby notified that, every four months, they must send reports to the office of the Palatines, and that any money collected by them must be forwarded without delay to the Treasury of the Sacred Largesses.

Given on the third of the Kalends of May, during the Consulate of Honorius, Consul for the seventh time, and Theodosius, Consul for the second time, 407.

Title 33. Concerning the duties of Count of Private Affairs.

.1The Emperors Valentinian and Valens to Honoratus, of Consular Rank, at Bysantium.

Where transactions have taken place on account of which it is evident that something is owing to the Treasury, you shall transmit information of the same to the office of the Count of Private Affairs, so that he may make an investigation, and ascertain by the aid of the law what is due.

Given on the sixth of the Kalends of January, during the Consulate of Valentinian and Valens, Consul for the second time, 368.

Title 34. Concerning the duties of Count of the Imperial Palace.

.1The Emperors Arcadius and Honorius to Minervius, Count of the Palace.

The duty of collecting what is due to Us, as well as any revenue from perpetual leases, that is to say, from emphyteutical contracts, belongs to the Palatines.

Given at Milan, on the Kalends of January, during the Consulate of Caesarius and Atticus.

.2The Same to Ursatius, Count of Private Affairs.

If any illustrious judge, or Prefect of the City, thinking that he had jurisdiction of some matter which belongs to the Department of Private Affairs, should claim it for himself, or if he should resist any decision of the tribunal aforesaid, his office shall be liable to the penalty of fifty pounds of gold, which must be collected without delay, and paid into Our Treasury.

Given at Ravenna, on the sixth of the Ides of August, during the Consulate of Constantius and Constantine, 397.

Title 35. Concerning the duties of Proconsul and Deputy.

.1The Emperor Constantine to Aelianus, Proconsul of Africa.

Imperial Deputies shall not only hear civil but also criminal cases, and if they find that sentence should be passed upon the culprits, they must not delay to send them to the Proconsul.

Title 36. Concerning the duties of the Count of the Imperial Patrimony.

.1The Emperors Honorius and Theodosius to Simplicius, Proconsul of Asia.

The Governor of the Hellespont having gone to Our Father, and informed him of the inconvenience to which he had been subjected by the subordinates of the Deputy, asked for authority to appear before your tribunal, and that pious prince being influenced by his representations granted him permission. This rule We decide shall stand.

Title 37. Concerning the duties of Count of the East.

.1The Emperor Leo to Useus, Praetorian Prefect.

We order that information shall be furnished Us with reference to those who have been appointed to the government of Lycia and Syria, in Upper Syria, by the Count of the East, as well as by the illustrious Governor of the province. Let the supervision of the games of Lycia be entrusted to the care of the Count of the East, and those of Syria be placed under the supervision of the illustrious Governor of the province, and let permission be refused the members of the curiae to discharge this duty or enjoy this honor, even if they desire to do so. Given on the fifth of the Ides of November, during the Consulate of Basilicus and Armerus.

Title 38. Concerning the office of Augustal Prefect.

.1The Emperors Valentinian, Theodosius, and Arcadius to Florentius, Augustal Prefect.

We order that all tributes due by the Department of Egypt shall be committed by yourself to the collection of the Governors of those provinces. If any possessors of

property, whether they are soldiers or not, shall dare to refuse to pay what is due, We order that they shall be compelled to do so by the aid of military force, if the case demands it.

.2The Emperors Theodosius, Arcadius, and Honorius to Rufinus, Praetorian Prefect.

The Augustal Praetorian Prefect shall have power to inquire into any crimes committed by judges under his jurisdiction, and to make reports with reference to them, but he shall not have power to remove them from office or punish them.

Title 39. Concerning the office of Vicegerent.

.1The Emperors Valentinian, Valens, and Gratian to Antony, Praetorian Prefect.

In the investigation of civil matters, it is proper that Vicegerents should take precedence of Military Counts, and that the latter should have priority in affairs relating to the army. Whenever they are associated in rendering decisions, the Vicegerent shall take precedence, and the count shall be considered as assistant; for as the office of Prefect is superior to others, so that of Vicegerent discloses by its name that it possesses a portion of its pre-eminence, is clothed in Imperial power, and usually represents the respect due to Our jurisdiction.

.2The Same to Hesperius, Praetorian Prefect.

The reports of Vicegerents, when circumstances demand it, shall be referred to Us, for We willingly hear the reports of judges, since the authority of their administration might seem to be diminished if We rejected their applications, as We do the petitions presented by ordinary persons.

Title 40. Concerning the duties of Praetor.

.1The Emperor Constantine to the Senate.

Jurisdiction is conferred upon the Praetor, by Our order, to hear and examine matters having reference to freedom. It is eminently proper that judgment should be rendered by him, for if a case involving complete restitution has been referred to him, and the reasons for the same are approved, he should render a decree; or where a guardian is to be appointed, or a curator confirmed, he must also interpose a decree, just as where a slave can, with the consent of his patron, be liberated in his presence. The duties of parents to their children do not, however, cease on this account, when they release them from their power, but still maintain control over them; as they understand that their children owe them even more submission when they remember that they have been released from parental authority by them.

.2The Emperors Valentinian and Martian to Tatian, Praetorian Prefect.

We order that only three Praetors shall be elected and appointed by the Senate for this City every year, who shall hear and determine all proper causes and actions which may be brought before them; but only those shall be appointed who have their residence in this Fair City, and not in the provinces. No one shall be appointed to the office of Praetor who has happened to come for other purposes from any other province to this City, but only those (as has already been stated), who have their domicile here; still, they should not be compelled to incur any expense against their will, but are free to dispense such liberality as they may desire.

Given at Constantinople, on the fifteenth of the Kalends of January, during the Consulate of Valentinian, Consul for the seventh time, and Avienus, 450.

Title 41. Concerning the duties of the Governor of a province.

.1The Emperor Alexander to Julian.

The Governor of a province who has cognizance of a case of forgery can decide any question of ownership involved in the transaction.

Given on the sixth of the Kalends of April, during the Consulate of Maximus, Consul for the second time, and Urbanus, 225.

.2The Emperor Constantine to Maximian, Governor of the Province.

Governors of provinces must neither hear nor determine cases in which any powerful person is interested whom they cannot punish, but must report him to Us, or give notice of the case to the Praetorian Prefecture, by which provision may be made for the maintenance of public order, and for the redress of wrongs inflicted upon persons who are weak.

Given on the fifth of the Kalends of May, during the Consulate of Probianus and Julian, 322.

.3The Same to the People of the Provinces.

We grant to all persons permission to praise just and vigilant judges by their acclamations, to enable Us to promote and increase their distinction; and on the other hand, We allow those who are unjust and malevolent to be publicly denounced, so that the severity of Our censure may be visited upon them; for if the complaints are true and are not attributable to the irregularities of clients, We shall make a diligent investigation, and for this reason the Praetorian Prefects and the counts appointed for the provinces must bring the complaints of Our provincials to Our notice.

Given at Constantinople, on the Kalends of November, during the Consulate of Bassus and Ablavius, 331.

.4The Same to Pericles, Governor of the Province.

We have conferred upon you authority to punish the officers of Prefects who disturb the public order, or plot against the general welfare, in order that you may convince the Prefects of their guilt.

Given on the tenth of the Kalends of November, during the Consulate of Constantius and Albinus, 335.

.5The Emperors Valentinian and Valens to Apronian, Urban Prefect.

Proper respect must be shown by inferior judges to their superiors. Where, however, the public welfare is concerned, and a judge of inferior rank is investigating the truth of a case, no wrong is committed against his superior. It is certain that anyone who performs the functions of his office in such a way as to believe that he ought to heap unmerited abuse upon persons who are lawfully invested with official authority will not escape the effects of Our resentment.

Given on the tenth of the Kalends of May, during the Consulate of Arinthius and Modestus, 372.

.6The Emperors Valentinian, Oration, and Theodosius to Cynegius, Praetorian Prefect.

The city of the Rhodians has made complaint of its injury in an improper manner, and too late. Wherefore, We decree by this law, which must inviolably be observed, that, as during the season of winter navigation is always dangerous and frequently uncertain, the judges shall sit in the five cities which are considered to be the principal ones, by turns, passing one winter in one, and another in another. If anyone should be convicted of violating this Our decree, he shall be fined fifty pounds of silver, and his office a hundred (if it was involved in such a breach of the law), to be paid into Our Treasury.

.7The Emperors Valentinian, Theodore, and Arcadius to Synegius, Praetorian Prefect.

When anyone invested with ordinary authority is guilty of any wrong, under the pretext that he should be transferred, he shall be compelled to remain in the province, and make good out of his own property, and at the expense of his reputation and fortune, the injuries which he has committed.

Given at Constantinople, on the seventh of the Kalends of June, during the Consulate of the Most Noble Youth Honorius, and Evodius, 396.

.8The Same to Cynegius, Praetorian Prefect.

Let no judge think that he has the right to appoint in his province anyone attached to the prefecture, the palace, or the army, or who may have previously held offices of this kind, a surety or an attorney to represent a litigant in some private or public matter; for he who does so will commit an offence against Our authority, and will not only be subjected to the loss of reputation, but also to the impairment of his estate.

Given at Constantinople, on the Nones of August, during the Consulate of our Emperor Honorius and Evodius, 395.

.9The Same to Polemius, Praetorian Prefect.

Let no Governor of a province presume to come to this most August City without Our order, for if anyone should be proved to have done so contrary to the provisions of Our decree, he shall be punished with a suitable penalty.

Given at Milan, on the tenth of the Kalends of January, after the Consulate of Timasius and Promotus, 390.

.10The Emperors Arcadius and Honorius to Limenius, Count of the Sacred Largesses.

We desire that no commerce should exist with the Palatines who are subject to your order, and the people of the province; but the judges should know that they are especially required to demand and collect the usual taxes from the latter; and the possessor of property should not be prejudiced against the Palatine who is instructed to warn him, not for himself, but as the representative of the judges and their officers.

Given on the sixth of the Kalends of April.

.11The Emperors Arcadius, Honorius, and Theodosius to Theodore, Praetorian Prefect.

We order that the Governors of provinces shall see that the agents of powerful persons are not guilty of anything wrong or unjust.

Given at Ravenna, on the sixth of the Kalends of December, during the Consulate of Bassus and Philip, 408.

.12The Emperors Honorius and Theodosius to Monachius, Praetorian Prefect.

We order that all the subordinate provincial officials who have abused their authority shall, in the discretion of the judge, be deprived of their offices, and if the case demands it, be beaten with rods, in order that this sentence of a criminal judgment may be the more easily executed, the insolence of officials repressed, and the consideration to which judges are entitled be restored by this act of severity.

Given on the sixth of the Kalends of January, during the Consulate of Honorius, Consul for the ninth time, and Theodosius, Consul for the fifth time, 412.

.13The Emperor Leo to Constantine, Praetorian Prefect.

If anyone, while still attached to the public service, should in any way obtain the government of a province, or any military office whatsoever, he shall be deprived of it as having usurped or obtained it contrary to law, even if he should voluntarily renounce the right of governing the province, or the military or other employment conferred upon him by Our liberality.

Given on the seventh of the Ides of August, during the Consulate of Leo, Consul for the fourth time, and Probian, 471.

.14The Same to the Same Praetorian Prefect.

It shall be lawful for no judge, having jurisdiction in any province, or residing in any city in which are situated Imperial or Praetorian Palaces, to leave the latter, and demand the houses of private individuals for the purpose of residing or holding court therein; but judges shall, under all circumstances, be compelled to reside in the Imperial or Praetorian Palaces, and are required to make all necessary repairs in them. When, however, there is both an Imperial and a Praetorian Palace in the city, the Imperial Palace shall be set apart for the residence of the Governor, and the Praetorian Palace shall be used as a warehouse to receive and keep safely public property, or anything else which may be necessary. If anyone, at any time, should attempt to violate this law, We order that he, as well as his office, shall be fined fifty pounds of gold for the purpose of repairing the palace which he neglected.

Given on the seventh of the Ides of February, during the Consulate of Clementinus and Probus.

Titles 42-43. The Latin texts of these two titles are missing.

Title 44. Concerning the office of the Prefect of the Watch.

.1The Emperors Theodosius and Arcadius to Nephridius, Prefect of the Watch.

The Prefects of the watch of this City ought not to decide capital cases by their own authority, but if anything of this kind should arise, they must refer it to your tribunal, so that judgment may be rendered by you in the above-mentioned cases.

Title 45. Concerning the duties of Civil Judges.

.1The Emperors Arcadius, Honorius, and Theodosius to Curtius, Praetorian Prefect.

Advocates who are known to have charge of cases shall not be permitted to remain with the judges during the hours, or at the times when the merits or the facts of the said cases are examined by them.

Given at Ravenna, on the third of the Nones of February, during the Consulate of Bassus and Philip, 408.

.2The Emperors Honorius and Theodosius to Anthemius, Praetorian Prefect.

If anyone desires to defend himself by the payment of a sum to which he is liable on account of malfeasance in office, he must go to the judge and explain his errand to

him; and if the judge should be unwilling to hear him (which we do not think probable), he himself shall be fined thirty pounds of gold, and his subordinate officer fifty.

Given at Constantinople, on the thirteenth of the Kalends of August, during the Consulate of Honorius, Consul for the eighth time, and Theodosius, Consul for the third time, 409.

Title 46. Concerning the duties of Military Judges.

.1The Emperors Valentinian, Theodosius and Arcadius to the Commanders and Counts of both Corps of the Army.

Neither military defence nor execution shall, under any circumstances, ever be employed in the affairs of private persons.

Given at Constantinople, on the day before the Ides of February, during the Consulate of Theodosius, Consul for the third time, and Abundantius, 393.

.2The Emperors Honorius and Theodosius to Monachius, Praetorian Prefect.

We order that neither members of the curiae nor private persons shall be summoned before a military tribunal, or be compelled to defend actions, or litigate before such a court. Moreover, when anything is done contrary to this law, We decree that the tribunal of the Count responsible for it shall be fined fifty pounds of gold.

Given on the sixth of the Kalends of September, during the Consulate of Theodosius, Consul for the seventh time, and Balladius, 416.

.3The Emperors Theodosius and Valentinian to Anatolius, Commander of the Army.

No one who has served under the orders of distinguished leaders shall, under any pretext whatsoever, be admitted to the Association of Agents of Public Affairs after the number is complete; nor shall he have authority to act in the place of the illustrious chief of that body. If anyone should attempt to violate this Our Decree, he shall not only be discharged from the army, but also suffer the penalty of confiscation of a third part of his property.

Given at Constantinople, on the fifth of the Kalends of February, during the Consulate of Maximus, Consul for the second time, and Peterius, 433.

.4The Same to Nomus, Master of the Offices.

We order that the generals of the army, and particularly those stationed near peoples who are especially distrusted, shall remain on the same frontiers, and, with the other officers, maintain the proper number of soldiers; and that they shall practice their daily exercises, and, moreover, that the camps shall be repaired and kept clean. On account of the various and arduous duties of the guards of the frontiers, We allot to

the commanders of camps the twelfth part of the supplies destined for that purpose, which should be distributed among them according to the judgment of the commander-in-chief.

Given at Constantinople, on the second of the Ides of September, during the Consulate of Maximus, Consul for the second time, and Paterius, 443.

Title 47. Baths shall not be furnished to Military Counts or Tribunes.

.1The Emperors Arcadius, Honorius, and Theodosius to Anthemius, Praetorian Prefect.

We order that no inconvenience shall be caused to either the curiae or the cities, and that no private bath shall be furnished by them for the use of tribunes or any other military officers, and that no additional compensation shall be granted on this account. For We confer this privilege only upon distinguished counts and generals of the army (if they desire it), and We order that those who violate this law shall have a penalty of double damages imposed upon them.

Given on the fifth of the Kalends of December, during the Consulate of Arcadius, Consul for the fifth time, and Probus, 406.

Title 48. Concerning the duties of various judges.

.1The Emperor Constantine to Domitius Celsus, Vicegerent.

Let no judge think that an officer may be sent with an order to a house in which the mother of a family resides, for the purpose of publicly arresting her, as it is certain that the debts of one who, on account of her sex, remains at home, can be paid by the sale of her house, or any of her property; because if anyone should, after this, believe that the mother of a family can be publicly arrested, he shall be reckoned among the greatest of criminals, and be condemned to the penalty of death, without any indulgence whatever.

Given on the fourth of the Ides of August, during the Consulate of Sabinus and Rufinus, 316.

.2The Emperors Valentinian, Theodosius, and Arcadius to Principius, Urban Prefect.

All judges are hereby notified that honor should be paid to persons of exalted rank, and to such of these as are sometimes brought into court, nor shall they presume to style them brothers in their official documents; and the subordinate officials charged with this duty shall be fined if they violate the law.

Given on the Ides of February, during the Consulate of Richomer and Clearchus, 324.

.3The Same to Constantius, Praetorian Prefect of the Gauls.

Let all generals, trumpeters, commanding officers, and judges know that they will be condemned to a fine of three pounds of gold, to be collected out of their property, if entrance to the private office of judges is refused those eminent personages who have the right of admission to Our Council Chamber; or the respect due to them is not shown in saluting them; or the privilege of sitting with the judges is denied them.

Given on the fifth of the Ides of November, during the Consulate of Trimasius and Promotus, 389.

Title 49. All judges, civil as well as military, shall remain for forty days after their term of office has expired in the towns or places where they discharged their duties.

.1The Emperor Zeno to Sebastian, Praetorian Prefect.

No illustrious Governor of a province, consular ruler, magistrate, or anyone who has received the insignia of the administration of a higher office, that is to say, the illustrious Proconsuls, Augustal Prefects, Counts of the East, or Deputies of provinces, or any general or commander of a division of the army, or any Count of the Imperial Palace, shall after he has been succeeded, presume to leave the place which he is known to have ruled before the prescribed term of fifty days has elapsed; but, during that time, Governors and consular rulers, the distinguished judges civil as well as military, and other magistrates, shall reside openly in the principal city where they have exercised jurisdiction, and shall not conceal themselves in their own houses, or on the frontiers, or in any fortified buildings, but shall appear before all the persons whom they formerly governed, and in the most public places; so that every one may have ample opportunity to file complaints against them, for theft or other crimes; and that everyone may be defended from injury by his successor; and if he should be accused, it will be at the risk of his office, as well as of that of the curia and the defender of the city; and, having given his oath as security, after he has been brought into court, he can defend himself against those who complain of him (as already stated), and protect himself by means of the law. No excuse shall be allowed him for departing from the province before the prescribed time has elapsed, either on account of an Imperial summons, or because of the offer of another administration in compliance with an order from your illustrious tribunal, appointing him to the place of a Governor of another province in obedience to a notice from the above mentioned, or any other civil or military authority whatsoever (no matter what public office he holds), which may be either produced or drawn up; and finally, the practice of any stratagem or artifice of any kind must be excluded, so that Our commands may take effect in every way by which We provide for the safety of all Our provinces. If, however, anyone should, with a rashness worthy of punishment, think that this most salutary law may be evaded or violated, although he may not unreasonably be considered guilty of high treason, still, he shall be compelled to pay a fine of fifty pounds of gold to the Public Treasury, and a similar penalty shall be imposed upon the official who succeeded him, and did not adopt proper measures to place him under restraint, or neglected immediately to give information of his flight.

(1)We do not wish for an official to surrender his administration before his successor has reached the boundaries of the province, even though he may have been notified by letters, or an Edict addressed to his office or to the people of the province, that he has been superseded.

(2)Anyone, then, who by taking to flight, does not observe the present law, can be brought back by your order, or that of the illustrious Governor of the province, from wherever he may be found, even in this Most Flourishing City, and conducted without any obstacle to the place which he has ruled, and be compelled to remain there for the space of six months; so that, in the meantime, any crimes or thefts which he may have committed may not remain concealed, and the official who did not prevent him from departing against the tenor of the law (as he was in honor bound to do), shall be fined thirty pounds of gold.

(3)If, however, during the said term of fifty days, he should be accused before the above-mentioned time has elapsed, and the case should not be terminated, and he should be civilly prosecuted for theft, and have appointed an attorney, after the fifty days have expired, he shall have the right to depart; but if he has been criminally accused, and there is documentary evidence against him, he will be compelled to remain in that place until the trial has been concluded.

(4)All judges, before whom, on account of their right of jurisdiction, or by the order of your illustrious tribunal, either civil or criminal cases may be brought, are hereby notified that they must end the above-mentioned litigation within twenty days after it has been begun; and if they should permit this time to be exceeded, We direct that they themselves shall be sentenced to pay a fine of ten pounds of gold, and any criminal prosecution or civil action which has been instituted before their courts shall be legally terminated by the lapse of the aforesaid term.

Given at Constantinople, on the fifth of the Ides of October, during the Consulate of Zeno, Consul for the second time, 479.

Title 50. Concerning the duties of one who takes the place of a judge or a Governor.

.1The Emperor Gordian to Domitius, Praetorian Prefect.

No doubt has ever arisen that the official who administers the affairs of a province in the place of a Governor can take cognizance of matters which have reference to the public welfare. For it is certain that if the rights of the State have in any way been infringed, the public defenders can, after having notified the Emperor, demand the relief of restitution (provided they think that the case requires it.(

Given on the third of the Nones of November, during the Consulate of Sabinus, Consul for the second time, and Venustus, 241.

.2Mandates of the Emperors Theodosius and Valentinian, sent to Antiochus and other Praetorian Prefects.

They are as follows: "Your Highness having suggested that the Imperial Majesty, having been informed, should grant authority to those who, by the order of the Emperor, or by that of your tribunal, are known to hold the office of Governors of provinces, to appoint guardians or curators for those persons demanding them, and to interpose their decrees where the alienations of minors and other persons of this kind are concerned, and invest them with the authority of persons belonging to the curiae, and allow them to grant emancipations, and to do all other things pertaining to the jurisdiction of the Governor of a province; in accordance with the statements of Your Highness, We have deemed it proper to order that they shall have permission to perform all acts of this kind above mentioned".

Given at Constantinople, on the day before the Ides of October, during the Consulship of Hierius and Ardaburius, 427.

Title 51. Concerning assessors, attendants and the chancellors of judges.

.1The Emperors Diocletian and Maximian to Paulinus, Praetorian Prefect.

The labor of study is meritorious, so that where those who are appointed to public office desire to have associated with them persons who can give them advice, they may call to their aid men whose wisdom they think is essential, whom they should inspire with the hope of rewards and honors, and not compel their services by arousing a terrible fear and necessity which is inconsistent with freedom.

Given on the day before the Ides of July, during the Consulate of Tiberius and Maximus.

.2The Emperor Constantine to Bassus, Urban Prefect.

Governors must sign documents, not by their assessors, but with their own hands, but if any one of them should allow an assessor to attach his signature without having consulted Us, the assessor who signed the document shall be sent into exile; and We order that the name of the Governor shall be communicated to Us, in order that he may be severely punished.

Given on the fifteenth of the Kalends of September, during the Consulate of Constantine, Consul for the sixth time, and Constantine-Caesar, 329.

.3The Emperors Arcadius and Honorius to Messala, Praetorian Prefect.

We order that counsellors of judges, chancellors, and those who perform the duties of attendants, shall remain for the term of fifty days in the province, after their term of office has expired. If any one of these, having been accused, should take to flight, he will be considered to have confessed, and We order that he shall restore fourfold the sum which he is said to have appropriated, so that the person who has been robbed may receive double the amount, and our Treasury the same.

Given at Milan on the sixth of the Kalends of January, during the Consulate of Theodosius and Rumoridius, 403.

.4The Same and Theodosius to Caelicianus, Vicegerent.

A court bailiff is not permitted to transact public business, and if he should be convicted of having meddled with it, he must immediately be examined by the Governor, in order that he may inflict suitable punishment upon him.

Given on the sixth of the Ides of April, during the Consulate of Honorius, Consul for the sixth time, and Aristenetus, 404.

.5The Emperors Honorius and Theodosius to Seleucus, Praetorian Prefect.

No one who has once performed the duties of bailiff or chancellor in the provinces is permitted to do so again under any circumstances whatever.

Given at Ravenna, on the third of the Ides of December, during the Consulate of Honorius, Consul for the tenth time, and Theodosius, Consul for the sixth time.

.6The Same to Vitalianus, Commander of Lydia.

No subordinate of a general or other military commander, who is included among his retinue, shall venture to aspire to the same office a second time, after his term has expired; and anyone who presumes to violate this law shall be condemned to pay a fine of ten pounds of gold, and the same penalty shall be imposed upon the office to which he is attached, if it has rashly consented to any of these things through desire for popularity, or avarice.

Given on the eighth of the Kalends of November, during the Consulate of Honorius, Consul for the eleventh time, and Constantius, Consul for the second time, 417.

.7The Same to Eustachius, Praetorian Prefect.

When assessors, who are sons under paternal control, have been accustomed to aid their superior officials with their advice, and have been able to acquire anything by lawful and honorable means, they can claim it as castrense peculium, even after the death of their fathers.

Given at Constantinople, on the Kalends of April, during the Consulate of Honorius, Consul for the thirteenth time, and Theodosius, Consul for the tenth time, 422.

.8The Same to Asclepiodotus, Praetorian Prefect.

No judge shall presume to take anyone with him to the province whose jurisdiction has been entrusted to him in order to invest him with the title of bailiff, or chancellor; nor shall he induce anyone to come to him from any place whatsoever for this purpose, lest he be branded with infamy, and have his property confiscated; for We order that chancellors shall be selected on the responsibility of, and after investigation by chief officials, so that after their terms of office have expired they may not depart, but

remain in the province, in order that the opportunity to accuse them may be furnished those who desire to do so; for if the case should demand it, they must be subjected to torture for the purpose of detecting the crimes of the judge.

Given on the day before the Kalends of July, during the Consulate of Asclepiodotus and Marinianus, 423.

.9The Emperors Theodosius and Valentinian to Taurus.

If, after their term of office has expired, the complaints of the people of the province or of the curiae, or any other public necessity should demand the presence of the judges, or the production of their bailiffs, they shall be given up to the court and the laws, by the same officials whose attendants they were.

Given at Constantinople, on the fifth of the Nones of July, during the Consulate of Theodosius, Consul for the fourteenth time, and Maximus, 433.

.10The Same to Florentius, Praetorian Prefect.

With reference to consular rulers who, in opposition to ancient laws and the Imperial decrees, remain in office longer than four months under their superiors, We order that they shall be liable to confiscation of their property, and accusation of public crime, unless they can defend themselves by means of a rescript, or an order issued by your tribunal.

Given on the thirteenth of the Kalends of February, during the Consulate of Theodosius, Consul for the seventeenth time, and Festus, 439.

.11The Same to Zoilus, Praetorian Prefect of the East.

The liberality of Our benevolence must be manifested none the less towards the assessors of the higher magistrates than towards the judges themselves; and therefore We order that the counsellors of illustrious officials, not only of the Praetorian Prefects of this Renowned City and the distinguished commanders of the army, but also of the Masters of the Offices, whether they have already performed the duties of said employment, or expect to perform them hereafter, when their terms have expired, shall be relieved of all taxes; and We order that every civil or military judge shall hereafter be entirely immune from the same; and in order that you may suffer no annoyance from this source, your office shall be fined fifty pounds of gold if it permits anything to be done contrary to this Our law.

Given on the fifth of the Kalends of March, during the Consulate of Theodosius, Consul for the eighteenth time, and Albinus, 444.

.12The Emperors Valentinian and Martian to Palladius, Praetorian Prefect.

All eminent judges shall be allowed to appoint the same counsellors for themselves a second and a third time, and even more frequently; because what once has been recognized as just should not, for this reason alone, be disapproved.

.13The Emperor Justinian to Demosthenes, Praetorian Prefect.

No one of those who is, or has been appointed an advocate to conduct cases either in this Royal City or in any court in one of the provinces subject to Our Empire, shall presume at one and the same time to practice as advocate, and discharge the functions of counsellor of any magistrate, to whom the conduct of public affairs has been entrusted; as, in order for the duties of an advocate or an assessor to be thoroughly performed it is abundantly sufficient to have those of each office done by one person, lest if anyone should apply himself to both he may discharge those of neither in a proper manner. If, however, the party in question prefers to act as advocate, he can do so with the requisite skill, and if he selects the office of assessor, he should confine himself to it; so that, after having laid aside the office of counsellor, he can resume the employment of advocate.

(1)Nor shall anyone be permitted to act as the assessor of two magistrates, and perform the duties of both offices at the same time (for it cannot easily be believed that one man is able to properly discharge the duties of two different necessary employments; for when he is assisting one judge, he must necessarily be absent from the other, and this will not be entirely satisfactory to both), but where one office is entirely taken from him he should be content with being attached to a single magistrate.

(2)And let no one think that this law can be evaded by any cunning devices, as, for instance, instead of placing the signature of the counsellor at the end of documents, as is customary, a person may imitate another signature, thinking that he can discharge the duties of the above-mentioned office, and conceal himself under the shadow of a fraud of this kind; as all those who attempt to evade the law and its force by cunning and unscrupulous arts are guilty of its violation. And let no one flatter himself that he can evade the present law, as has been the case with former ones enacted with reference to this subject. For if anyone should be convicted of such an offence, he is hereby notified that his name shall be immediately erased from the roll of advocates, and that he shall be sentenced to pay a fine of ten pounds of gold into the Treasury of Our Private Largesses, which penalty shall be exacted by the Illustrious Count of Private Affairs; and he shall even be liable to a more severe one, nor shall the judge himself who permitted this to be done, and acted knowingly and deliberately, go unpunished. The same penalty shall be inflicted upon the person or persons who, being either assessors or magistrates, have presumed to render judgment in cases in which they have appeared as advocates; lest the remembrance of their friendly disposition, or of their assistance as advocates, may not permit them to sustain the part of an incorruptible judge.

Given at Chalcedon, on the fifth of the Kalends of October, during the Consulate of Decius, Consul for the fifth time, 529.

Title 52. Concerning provisions and the capitations of certain officials and their assessors, and of those exercising other public employments, or who have been appointed to office.

.1The Emperors Theodosius and Valentinian to Florentinus, Pretorian Prefect.

An established and positive rule must be observed with reference to all eminent officials, as well as illustrious judges who administer military or civil affairs in the province, including the Count of Commerce, the Master of the Mint, and the Treasurer of Private Affairs, of the district of Pontus, and Asia; as well as the assessors of the judges, in the payment of their allowances for provisions and capitations, so that they may obtain from these sources that to which by their rank they are entitled, which is ordinarily stated in their commissions.

Given at Constantinople, on the third of the Kalends of June, during the Consulate of Theodosius, Consul for the seventeenth time, and Festus, 439.

Title 53. Concerning the contracts of judges and their subordinates, and the prohibition of donations to them, and the provision that, during their term of office, they cannot build houses of their own without a pragmatic sanction.

.1The Emperor Justinian to Menna, Praetorian Prefect.

Those who administer public affairs in this Most Flourishing City cannot purchase any movable or immovable property, or build any houses without obtaining from Us a special rescript authorizing them to do so.

(1)Moreover, they must refuse donations of every description, knowing that they are not valid, no matter what they may consist of, and what their value is, unless the donor specially ratifies the donation in writing, after the term of office of the person who received the gift has expired, or the term of five years has elapsed, during which no complaint has been made with reference to the said donation, either by the donor himself or by his successors.

(2)We absolutely forbid Governors of provinces not only to receive donations, but also to make purchases of any property either movable or immovable (except such as may be required for food and clothing), or to construct houses, even though they may be authorized to do any of these things by a rescript; and anything which has been given or transferred to them by sale shall not be ratified, even though the term of five years may have passed from the time they surrendered their office, and the consent of the donor or vendor may have been obtained after the said term of office has expired.

(3)We consider it necessary for this rule also to apply to their bailiffs and counsellors, adding that none of these acts can be performed through the intervention of a third party without involving the risk of punishment.

(4)We order that this law shall have a retroactive effect, except where matters have been settled by a compromise, or a judgment.

Given at Constantinople, on the fifth of the Ides of December, during the Consulate of Our Lord Justinian, Consul for the second time.

Title 54. Concerning the manner in which fines shall be imposed by judges.

.1The Emperors Severus and Antoninus to Firmus.

The imposition of a fine does not carry with it the stigma of infamy.

Given on the fifth of the Ides of April, during the Consulate of Antoninus and Geta, Consuls for the second time, 206.

.2The Emperor Alexander to Decimius, Praetorian Prefect.

It has often been stated in rescripts that My agents, or receivers of public money, have no right to impose fines.

Given on the thirteenth of the Kalends of September, during the Consulate of Modestus and Probus, 229.

.3The Emperor Gordian to Celer, Praetorian Prefect.

The Curator of the Government, styled in Greek logista, has no right to impose a fine.

Given during the Ides of September, during the Consulate of Gordian and Aviola, 240.

.4The Emperors Gratian, Valentinian, and Theodosius to Eutropius, Praetorian Prefect.

We have authorized the illustrious Praetorian Prefect to impose a fine not to exceed fifty pounds of gold, when the offence is an exceedingly serious one.

Given on the eighth of the Ides of January, during the Consulate of Gratian and Theodosius, 380.

.5The Emperors Valentinian, Theodosius, and Arcadius to Praetextatus, Praetorian Prefect.

There is no one who does not know that the exact amount of fines received must be turned over to Our Treasury; unless the judge has specially allotted the fine paid for the commission of an offence, either to the public works, the public race-course, or to other necessary objects.

Given on the fifth of the Ides of September, during the Consulate of Richomer and Clearchus, 384.

.6The Emperors Arcadius and Honorius to Messala, Praetorian Prefect.

We do not allow the ordinary Governors of provinces to impose a fine of more than two ounces of gold upon such persons as have rendered themselves liable to a pecuniary penalty.

(1)Where a fine is prescribed, the Proconsul shall have authority to impose one of six ounces of gold, and this rule also applies to the Count of the East, as well as to the Augustal Prefect.

(2)Other judges, and those who have undertaken the administration of military affairs in Our stead, are notified that they are refused permission to impose a fine of more than three ounces of gold.

(3)We decree that it shall be observed by judges that, when the repetition of an offence demands it, the same person may be fined three times during the same year, in accordance with the above-established scale.

(4)If any one should exceed the amounts above mentioned, he shall be condemned to twofold restitution, and shall be required to pay into Our Treasury the sum which he imposed under the name of a fine.

(5)Those who have been convicted of peculation or robbery, that is to say, of depredation, corruption, or other crimes which ought to be punished with exemplary severity, must not think that they are entitled to the moderate penalties of the present law. Sentence shall always be passed by the above-mentioned judges, after having been committed to writing, and at the expense of the party against whom it is directed.

(6)Nor shall they think that they have a right to condemn anyone not guilty of a serious offence with too great readiness, or precipitation; or that what they have ordered can be changed by the mere will of the judge, unless the poverty of the person who has been convicted induces him to do so.

Given on the twelfth of the Kalends of September, during the Consulate of Theodosius, Consul for the second time, and Cynegius, 388.

Title 55. Concerning the defenders of cities.

.1The Emperors Valentinian and Valens to Seneca, Defender.

If anyone thinks that you should be consulted with reference to trifling and unimportant matters, that is to say, those in which an amount under fifty solidi is involved, in other words, where anyone demands that you, by your decree, collect for him a debt which is due, or restore a slave who has escaped by flight, or any other thing of this kind, he may then institute proceedings before you; other cases, however, which appear worthy of a higher tribunal should be sent to the ordinary Governor of the province.

Given on the fifteenth of the Kalends of January, during the Consulate of Valentinian and Valens, 365.

.2The Same to Probus, Praetorian Prefect.

The defenders of cities shall not be appointed from the classes of decurions or attendants of public functionaries, but from other persons qualified for the duties of the office.

Given on the third of the Nones of November, during the same Consulate, 365.

.3The Same and Gratian to the Senate.

It has seemed to be reasonable that innocence and rustic quiet should enjoy the benefit of protection; that is to say, be entitled to the services of the public defender of the district, and have the power to appear before him in pecuniary cases.

Given on the fourth of the Ides of August, during the second Consulate of Valentinian and Valens, 368.

.4The Emperors Gratian, Valentinian, and Theodosius to Theodore, Defender.

The following rule must be observed, as well as the term of five years by defenders of all provinces, that is to say you must, in the first place, act as the father of the people, and not suffer the residents of either the country or the town to be subjected to too heavy charges; and you must always oppose the insolence of officials, and the arrogance of judges (showing them, however, the respect to which they are entitled), and you shall have the power of appearing before them whenever you may wish; but you must prevent persons from exacting excessive damages or demanding more than they ought from them whom you should regard in the place of children; and you shall not permit anything over and above their dues to be collected from them, as it is certain that they cannot be protected except by a remedy of this kind.

Given at Constantinople, on the eleventh of the Nones of January, during the Consulate of Arcadius and Bauto, 385.

.5The Emperors Valentinian, Arcadius, and Theodosius, to Potamius, Augustal Prefect.

Defenders shall claim nothing for themselves in an insolent manner, nor anything to which they are not entitled, and they can only discharge the duties of their office in their own names; they cannot inflict penalties or severe torture; and they must protect the people as well as the decurions from the insolence and rashness of wicked persons, so that they may not fail to be what their name implies.

Given at Constantinople, on the third of the Nones of March, during the second Consulate of Arcadius and Rufinus, 332.

.6The Same to Tatian, Praetorian Prefect.

Defenders of well-approved and resolute character shall be appointed in all those regions in which the ferocious and reckless madness of robbers is displayed; and they

must exercise supervision over all daily occurrences, and not permit crimes to go unpunished, but remove all persons who, by favoring criminals, and by affording encouragement to wicked persons, permit offences to be perpetrated.

Given on the fifth of the Ides of April, during the Consulate of Arcadius, Consul for the second time, and Rufinus, 392.

.7The Emperors Honorius and Theodosius to Caecilianus, Praetorian Prefect.

When persons are accused of robbery or violence, or have committed homicide, or rape, and have been arrested and brought before the defenders, if the crime should be proved by those who have made the accusation, they shall immediately send the culprits under a suitable guard before the judges.

Given at Ravenna, on the twelfth of the Kalends of February, during the Consulate of Honorius, Consul for the eighth time, and Theodosius, Consul for the third time, 405.

.8The Emperors Honorius and Theodosius to Caecilius, Praetorian Prefect.

We order that municipal defenders shall be chosen from those who have been initiated into the sacred mysteries of the orthodox religion, and appointed by a decree of the Most Reverend Bishops, clerks, persons of honorable rank, possessors of property and curiae. The selection shall be referred to the illustrious Praetorian Prefect, in order that the appointment may be confirmed by him in writing.

(1)If, however, the defenders should ascertain that anything has been done by any person whomsoever against the public welfare, and to the injury of possessors of property, they are hereby authorized to notify the illustrious and eminent Praetorian Prefect, and the illustrious commanders of cavalry and infantry, as well as the Masters of the Offices and the Counts of the Imperial Largesses, as well as those of Private Affairs.

Given at Ravenna, on the fifteenth of the Kalends of February, during the Consulate of Honorius, Consul for the eighth time, and Theodosius, Consul for the third time, 409.

.9The Same to Caecilius, Praetorian Prefect.

We order defenders, by the exercise of care and vigilance, to prevent owners of property from being oppressed by collectors of taxes, through the use of excessive measures and weights, and if the latter should be detected, they shall be sent to the judges with the evidence of the fraud which they have committed.

(1)Whenever Our provincial subjects are refused by defenders the right to claim damages from those who have injured them, if they desire to do so, permission shall be granted them to draw up their own complaints at the time when the case is to be heard, and to present them publicly in the most frequented places in the cities, and to notify the scribes, notaries, and other public officials, by whom their complaints should be received; so that in spite of the above-mentioned persons, proceedings may be instituted against those who are guilty, and the good faith of the complaints may be

examined, and if it should be found to be proper, the power of the judges shall be vigorously exerted against those who refused to receive the complaints.

Given at Ravenna, on the eleventh of the Kalends of February, under the Consulate of Honorius, Consul for the eighth time, and Theodosius, Consul for the third time, 409.

.10The Emperors Theodosius and Valentinian to Cyrus, Praetorian Prefect.

We decree that no defender shall be permitted to release himself from the performance of his public duties, if he should desire to do so, unless he has obtained permission from the Emperor; and if the Imperial authority should not be respected a fine of thirty pounds of gold shall be imposed upon the Governors of provinces, as well as upon judges or others who dare to violate Our Sacred Decree.

Given on the sixteenth of the Kalends of September, under the Consulate of Constantine and Cyrus, 441.

Title 56. Concerning municipal magistrates.

.1The Emperor Constantine to Florentius, Praetorian Prefect.

Decurions should be appointed to discharge the duties of magistrates, or for the collection of provisions, three months or more before the terms of their predecessors expire; so that, if any just cause of complaint exists, others may replace them without causing any inconvenience.

Given at Constantinople, on the Ides of April, during the Consulate of Severus and Rufinus, 323.

.2The Emperors Valentinian and Valens to Germanianus.

Municipal magistrates shall have the power to draw up public decrees.

Given on the thirteenth of the Kalends of January, during the Consulate of Our Emperor Gratian, and Dagalaiphus, 366.

Title 57. Concerning the office of judge of Alexandria.

.1The Emperors Leo and Anthemius to Alexander, Commander, and Augustal Praetorian Prefect.

We order that all those who desire to do so shall, for the purpose of making donations, have the power of presenting public petitions before the judge of the renowned City of Alexandria, the only one to which this privilege is granted. These petitions shall have the same force and effect as if they had been presented before the Governor of a province, a municipal magistrate, or a defender of the people.